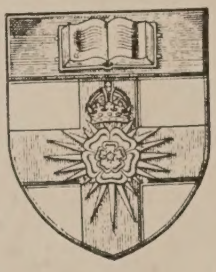
FERENCE ONLY



UNIVERSITY OF LONDON
LIBRARY

STATUTE LAW.

RETURN to an Address of the Honourable The House of Commons, dated 7 March 1854;—*for*,

"COPIES of the two REPORTS of Mr. BELLENDEN KER to the LORD CHANCELLOR, on the PROCEEDINGS of the BOARD for the REVISION of the STATUTE LAW."

(Mr. Walpole.)

SECOND REPORT

OF

MR. BELLENDEN KER TO THE LORD CHANCELLOR,

ON THE PROCEEDINGS OF THE BOARD

FOR THE REVISION OF THE STATUTE LAW.

Ordered, by The House of Commons, *to be Printed*,
12 *June* 1854.

302.

BIBL. LONDON UNIV.

STATUTE LAW COMMISSION.

SECOND REPORT of Mr. BELLENDEN KER to the LORD CHANCELLOR, on the PROCEEDINGS of the BOARD for the REVISION of the STATUTE LAW.

MY LORD,

IN my first Report on the Proceedings of the Board for the Revision of the Statute Law, which I had the honour to address to your Lordship on the 12th of August last, after giving some account of the way in which my colleagues had been employed, and of the nature of the separate papers contributed by them, I stated that, in my opinion, there were only two courses to be pursued from which any material advantage was likely to result. First,—the completion of a revision of the statutes, and the settlement by declaratory acts of all doubtful points relating to the existing Statute Law; and secondly,—the immediate consolidation of the Statutes, reducing each subject into a separate chapter or act; and I added, that supposing your Lordship should determine that the proceedings of the Board should not be confined to merely ascertaining what is the precise text of the present Statute Law, it appeared to me advisable that the process of consolidation should be first commenced. But as I did not in that Report state in detail either the reasons which had led me to those conclusions, or those which had induced me to reject other proposals and suggestions as to the most useful employment of the Board, and as I apprehend that my views, as expressed in that Report, have in some degree been misunderstood, I now beg leave to lay before your Lordship somewhat more at length the opinions I entertain on the subject of the task committed to me, together with a short account of the motives which induced me to present, as the first Report of the Board, a collection of separate papers by the several members of it. In doing this I wish to premise once for all, that I do not pretend to have discovered anything new, but merely to have made up my own mind, with all the assistance I could get, on the subjects under consideration; and that I neither claim for myself, or think it necessary to trace to others, the merit of having originated any of the views hereafter advocated or discussed; such questions being quite immaterial. I may however observe, that it will be found that my present views are quite consistent with those shortly put forth in my first Report, and that the time which I have had for further and more careful consideration of this subject has confirmed my conviction of their correctness.

I did not in my former Report consider it necessary to refer to the various opinions which have been given as to the necessity for a review of the Statutes, and for devising some scheme for ensuring greater accuracy and simplicity in framing future acts. All this is very carefully set forth in the Report of the Commission of 1835, of which I was a member, and in the drawing up of which Report I took an active part. I may however add, that when that Report was framed, although I fully agreed in the recommendations put forth, and was entirely satisfied that great benefit would result from a revision of the existing Statute Law, and the devising some scheme for ensuring more accuracy and simplicity in the framing of future statutes, it was not till I was appointed to

the present Commission that I felt called on to consider how what was proposed could be best effected.

On my appointment by your Lordship I thought it my duty as well for my own information and benefit, as in justice to my Colleagues, to invite them to give their separate opinions as to the nature of the task entrusted to us, and the best method of performing it; and also to proceed, provisionally and by way of specimen, to execute such operations as seemed to them advisable.

I was induced to follow this course, in preference to at once devising a definite working plan and proposing the performance of it to the other Commissioners, both by the conviction that I should obtain valuable assistance from these separate and independent opinions, and also by the reflection that as the Commission was, as stated by your Lordship, "to some extent experimental" and to be "confined for the present to so much only as could be done in one year," it would not be right to commence any great or elaborate process which if left unfinished might be useless; and that the best service we could render would be to ascertain with distinctness, and with a view to immediate practice, what measures could be most advantageously recommended to the Legislature for the improvement of the Statute Law. I may perhaps be permitted to add another consideration which had some influence with me, namely, that our employment being novel in its nature, and one for which no one in this country has had any regular education, it did not seem altogether foreign to my duty to take some means of enabling each Commissioner to show independently the stock of knowledge and intelligence that he could contribute. The Report which was made to your Lordship last August, and laid on the table of the House of Lords, contained the different contributions of the Commissioners made on the principle and for the purposes above mentioned. It has been objected that it does not appear from this Report, that the Commissioners are agreed as to any plan; that it contains no detailed scheme, &c. The foregoing account of its composition will show that as far as the other Commissioners are concerned nothing of the kind was to be expected; for it is not to be supposed that four or five persons coming together for the first time should at once find themselves taking precisely the same views and fall into a combined plan; and if a further objection be made that a report consisting of such materials was not worth publication at all, I think that besides the intrinsic value of the different papers, a sufficient justification may be found for the publication in the natural desire to prove that the Commissioners have not been idle, the wish to do justice to all persons concerned, and the expediency of showing that the subject has been looked at in all points of view, and that if any courses are not adopted, it is because they have been considered and rejected, and not because they have been overlooked.

As the principal object of this communication is to give some explanations as to my own contribution to the former Report, I do not think it necessary to speak further at present as to the other contents of it, particularly as I have already spoken of them. I trust I need not further excuse myself to your Lordship for not having earlier explained more in detail what were my views. I did not profess on my appointment to have any detailed working plan ready which I could at once set the Commissioners upon carrying out; and considering the nature of the subject, it can hardly be thought unreasonable that I should have allowed myself three or four months to collect and consider the views of my colleagues, and to test, review, and complete my own, before submitting any definite recommendations to your Lordship.

I have reason to believe, however, that some who take an interest in the proceedings of the Commission seem to consider that I have not yet propounded

any explicit views to your Lordship. I did certainly imagine that I had stated plainly in my paper the conclusions at which I had arrived, and the practical course which I advised; but, as it appears that some further explanation is necessary, I beg your Lordship's permission to repeat my views somewhat more at length; first making a few introductory observations, as well to justify my opinions, as to indicate the process by which I have arrived at them.

The operations suggested to us by your Lordship in the Memorandum which you read to us at the first meeting of the Board, on the 31st of March 1853, were,—revision of the Statutes,—the digestion of their contents,—and the preparation of consolidated and amended Statutes based on such a digest. I imagine, however, that it was not your Lordship's intention to preclude me from modifying the plan indicated, if further consideration, or the experience only to be gained by practice, should lead me to think it expedient to do so; and that you wished me generally to suggest and (if approved of) carry out *any* improvements in the Statute Law which should appear practicable, whether in precise accordance with the Memorandum or not; and for the reasons which I shall state, it now seems to me expedient to commence with the last of these operations; but I first would make a few observations on each, in the order in which they are mentioned in the Memorandum.

On the subject of the Revision of the Statutes, I cannot help suspecting that many of those who demand it do not attach any distinct meaning to the words which they use, or that they expect a result which is not attainable. Nothing is more common than to hear complaints that the immense bulk of what is called the "Statute Book" is a disgrace to the Legislature; the "Statutes at Large," it is said, are dispersed over thirty-nine thick quarto volumes,—they weigh so many pounds, &c. But on reflection it will appear that on this ground alone there is no reasonable cause of complaint against the Legislature. The real "Statute Book,"—that is, the Rolls of Parliament,—is an *historical* collection, not a code. The Legislature has now been making laws for upwards of six centuries, and it is no reproach that in the course of that time the law on various subjects has been changed over and over again, and that consequently the "Statute Book" is voluminous, and contains an immense amount of matter now obsolete. What we commonly call the Statute Book, (meaning the quarto edition commenced by Ruffhead, and now consisting of thirty-nine volumes,) and all other editions of the Statutes, are private speculations, with which the Legislature has nothing to do. It is spoken of as a hardship that a person who wishes to buy a collection of the Statutes now in force is obliged to buy thirty-nine quarto volumes; but it is no fault of the Legislature that those thirty-nine volumes contain, together with the Statutes now in force, a vast number which are not; it is only because there is no better edition that the student is obliged to buy the dead matter with the living.

It may, indeed, be thought by some, that though the strict function of Parliament is only to make good laws, and the publication of selections and abridgments is the affair of the public, yet, practically, it is desirable to have a revised edition of the Statutes with such authority as a Parliamentary or Royal Commission can give to it. Such a course is no doubt practicable; but whether it is expedient at the present time is another question. I apprehend that it is not now considered proper for the Government to undertake any works which can be executed by private industry or enterprise; and convenient editions of the Statutes actually in force, suited to the wants of the public, seem to be of that nature. In fact the quarto edition called the Statutes at Large is itself an unauthorized selection and abridgment, though on a copious scale; and there are several other selections and abridgments more or less copious, in as many

forms (we may presume) as the demands of the public make it worth while to produce. There seems no reason why the Government should undertake the production of any such. It could not be made a work of superior authority to any other selection or compilation, except by the direct action of Parliament, that is, by being actually placed on the Statute Rolls. There is no intermediate station which such a work could take; it must be either of paramount authority, the actual law, or it could have no authority at all, and be only a useful work according to its merits. It may seem unnecessary to urge these truths, which are so evident; but they are practically overlooked by most of those who complain of the present evils of the Statute Law, and even by those who have proposed remedies for them; nothing is more common than demands for "authorized" editions, authorized classifications, indexes, &c., of the Statutes, without any consideration as to how the authorization is to be conferred. When Lord Bacon made his celebrated proposal to prepare a revised edition of the Statutes, reasons existed to justify such a proposal which I think are not applicable now; it was probable that no such edition was then possible except at the public expense; and besides, the difference in authority between absolute legislative enactment and a work executed by the greatest lawyers in the country, and published under the sanction of a Royal Commission, was not perhaps then felt so clearly as it would be now; so that such an edition would at least have had the advantage of being looked on as an authoritative exposition of the law. I presume it can hardly be necessary to show that a really authorized edition of the Statutes,—that is, an edition enacted by Parliament, declaring both affirmatively and negatively that those, and those only, are the Statutes now in force,—is quite impracticable; besides other objections, it is to be observed that the propriety of inserting or omitting particular Statutes in preparing a selection is, in most cases, a matter not of absolute certainty but of editorial discretion: and that an edition from which no Statute is to be omitted, except those of which it can be said without the least doubt, that it may for all possible purposes be treated as if it had never existed, would not be much less bulky than the thirty-nine quarto volumes now complained of.

In another sense, however, there is a revision which the Legislature may be said to owe to the public,—I mean a revision for the purpose of ascertaining what Statutes there still are (in Lord Bacon's words) "sleeping and not of use, but yet snaring and in force"; as well as what Statutes there are which, owing to the careless language of subsequent legislation, cannot be said on strict principles of construction to be repealed, though generally considered, and probably intended not to be in force; and what Statutes there are of which the meaning is uncertain. Of the former class (the obsolete) there are no doubt many, though not, I believe, many of much practical importance; of the other kinds the number is at first sight very large, although probably in many cases it is only *difficult*, and not after sufficient examination really doubtful, whether a statute has been repealed by, or is inconsistent with, a subsequent enactment or not. However, it cannot be denied that the existence of *any* such cases is a reproach; and if I do not recommend the immediate removal of such a reproach it is chiefly because in the course of consolidation, which, as will be seen further on, I recommend for immediate adoption, the greater part of the desired result may be incidentally effected, and the task of effecting the remainder very considerably diminished. The operation can, however, if thought proper by your Lordship, be immediately undertaken; but it should be recollected that it will require a complete critical examination of the whole Statute Book, (a task on the extent and labour of which I need not enlarge), to do it effectually; and that when completed the result will be comparatively trivial. A considerable list of obsolete Statutes which have never been formally repealed might indeed be produced without much delay or difficulty, if required; but it is in the secret,

not in the obvious cases, that the danger, such as it is, chiefly exists; and a list of the latter only, besides being imperfect, would be of little practical importance. Besides, it is probable that many of the obsolete Statutes, though not apparently repealed, have been really superseded or made inoperative by subsequent legislation, so that there would be considerable risk of encumbering the Statute Book with further unnecessary matter under pretence of relieving it, unless the accuracy of such list were tested by a complete examination of the entire body of Statute Law. On the whole, then, it does not seem expedient to commence such a work at present; but I need not add, that should your Lordship take a different view of the matter there is no reason, beyond those which I have stated, why it should not be commenced immediately. We are already in possession of valuable materials towards it, in the list of defunct Statutes prepared by Mr. Anstey and Mr. Rogers, as mentioned in the first Report.

There is another view connected with the revision of the Statutes, which I think it right to notice, as it has been, and I believe still is, entertained by two of my colleagues, and probably is entertained by many other persons, namely, that it is the duty of Parliament, if not itself to republish all those Acts which are to remain in force, at least to give assistance to any editor who now wishes to make a new edition of the living law, by passing a comprehensive Statute, enumerating every one of the laws already repealed, expired, or otherwise not in force, and once more declaring or enacting them to be repealed. With every respect for those who hold this opinion, I must say that I think an Act of this description is quite out of the question, and that for many reasons, some of principle and others practical: they are briefly these:—1. That to ask the Legislature to repeal what is not the law at all, is futile, and asking it to do what is no part of its office. 2. That if passed, such an Act would not, after all, be of much practical use, and the points in which it would be most useful would be better provided for in the course of consolidation, as I shall endeavour to show further on. 3. That the benefit (which has been much insisted on) of having a chronological list of all the Statutes not in force would only endure for a single Session, for the repeals of the next Session would not appear in their chronological places. 4. A very great number of the defunct Acts of Parliament are of such a nature that it is not proper to declare either that they are repealed or expired: the only proper course is to let them alone. Such are all Acts which are the foundations of rights or titles, to which it has long ceased to be necessary to appeal, but which, nevertheless, cannot be declared repealed, which would be equivalent (in many cases) to enacting the *contrary*. The proposed Act would therefore, in a great degree, fail in its object, for it would necessarily leave untouched a vast mass of Statutes which no editor would think it necessary to reprint, but which nevertheless are not so absolutely annulled that the Legislature itself may declare them to be for all purposes extinct, as if they had never been. It may be observed that it is not reasonable or natural to *repeal* any Act of a temporary nature, unless it is intended to shorten the original term fixed for its duration; or to repeal any of those Acts which, though not expressly limited as to duration, were passed to effect an end which has been effected, unless it is intended to reverse what has been done under them. There is an essential difference between the repeal or the expiration of an Act. A repeal implies a change; the expiration of a temporary enactment is no change, but belongs to its original condition. It is therefore absolutely incorrect in principle to repeal an expired Act; it is also nugatory, for the repeal can only mean that the Act is not to be in force if the conditions of its existence have terminated,—which is a truism, and no assistance to any one; or else that it is not to be in force whether the conditions of its existence have terminated or not, —which is not what is intended. It will be said that the proposed general

clearing Statute is not a repeal, but only a declaration by the Legislature that the Acts have expired; but what can that mean? The Statute must have some legislative force or none; if none, what is the use of it? if any, it must be a repeal. If, however, there be a doubt as to whether the Statute has expired or not, then on revision it is fitting that this doubt should be solved.

These objections are not merely verbal distinctions; they are founded on the nature of things. The difference between a permanent and a temporary or transitory Act is fundamental, and it would be singular if the application to the one of a treatment only proper to the other had not a practically mischievous effect. In fact, to repeal an Act which is defunct only because it has effected its object, would produce an effect exactly the contrary of what is intended. Suppose an Act authorizing trustees to purchase an estate; they purchase the estate accordingly, and the Act is defunct; there is nothing more for it to do. But if we now *repeal* that Act, we repeal the authority given to the trustees, and their purchase becomes a breach of trust. The case of all transitory Acts is, in fact, the same—the effect of a repeal, when strictly considered, is not to get rid of them, but to invalidate everything that has been done under them. Tithe commutations, inclosures, enfranchisements of copyholds, sales and exchanges of estates, divorces, and many other whole classes which will readily suggest themselves, fall within the scope of the foregoing observations: an Act declaring that the Acts under which they were effected are repealed would be equivalent to a declaration that they were illegally made and void—the tithes would be restored, the inclosures would become common land, the enfranchised property would become copyhold again, and so on. No doubt the repealing Act could be so worded as not to produce such effects as those last mentioned; but it could only be by confining it to a declaration that the Acts are not in force, except so far as they are wanted, which would make it nugatory; for to declare that the repeal only applies to the future would not be sufficient; the Acts now in question being the foundation of continuing rights.

Permanent Acts are repealed, because it is intended that they shall no longer be the law of the land as to present and future transactions; and if there are any permanent Acts about which there may be a doubt whether they have been repealed already, there can be no harm in repealing them over again, for still that is only a declaration that they shall not henceforth be the law, whether they were so before or not. It will readily be seen that the case of expired and defunct Acts is entirely different, and that these considerations do not touch them at all.

It appears, therefore, that so far from its being any part of the duty of a Legislature to pass a declaratory Statute as to expired and defunct Acts, such a measure would at best be nugatory, and perhaps mischievous.

Finally, from the manuscript list of the defunct Statutes which has been already prepared by Messrs. Anstey and Rogers, which would form the basis of any such declaratory Act as is proposed, it would appear that, even taking the public Acts only, and those relating to (or including) England only, and those which are wholly repealed and expired only (though such limitations would deprive the measure of much of its value), the declaratory Statute would contain upwards of ten thousand entries; and if extended (as it ought to be, if made at all,) to all repealed or expired enactments whatsoever, and not merely to whole Statutes, would probably contain not far from twenty thousand entries; those who best know the difficulty of passing an ordinary Bill through Parliament will be best able to judge of the possibility of ever passing such a Statute without an infinitely stronger case for its necessity than would be felt or could be urged.*

* I still think, as suggested in my first Report, that as soon as the list of Messrs. Anstey and Rogers is revised, with, perhaps, the addition of some further details, it would be a convenience to the public that it should be printed for distribution.

The second process mentioned by your Lordship is a digest of the existing Statute Law, as the materials for a consolidation. Every draftsman engaged in preparing a Bill which is to embody the contents of previous Acts must, more or less deliberately, make a digest of those Acts; the mention of this process, therefore, naturally preceded that of consolidation. It does not, however, necessarily follow that it is desirable actually to make a complete digest of the existing law merely as an intermediate stage before commencing the final process of consolidation, which is the only one really important, because it is the only one which really implies any *improvement* of the existing law; for the revision of the Statutes, as already observed, implies only a publication not authenticated (except in the limited sense of a repeal of obsolete and doubtful Statutes); a digest also implies only a publication; while I apprehend that your Lordship's great and immediate object is to be provided with materials for *direct legislative action* towards the improvement of the statute law.

Having thus stated my reasons for not recommending certain measures, I now proceed to state what are the measures which I do recommend; and after the best consideration that I have been able to give to the subject, I think the course most feasible and most practically conducive to the desired result of an improved state of the Statute Law, is the *gradual* consolidation, or, as I would rather call it, the re-writing of the Statute Law—combining, of course, with such consolidation or re-writing all such improvements of the law as can be suggested; in short, continuing a process which has for a long period been applied to isolated subjects and in a desultory way, always, however, with the most marked advantage; but more rapidly, more carefully, and in a more uniform manner, and with more particular regard to the clear abrogation of all the previous Statute Law on the same subject. As fast as this process is performed with reference to any branch of the law which is the subject of a group of statutes, the two other processes, mentioned by your Lordship's memorandum, will have been effectually performed also—that is, a digest will have been actually or virtually made, and in the course of framing the Act used and become unnecessary, and all the uncertainties which could be noticed on a revision will have been cleared up. Perhaps the foregoing proposal may appear no great matter to those who have been expecting something new and great and comprehensive, which was to relieve the public at once of those thirty-nine quarto volumes and all the other annoyances of which complaints are so common. My answer to any one who should express any such disappointment would be, that it is something to have ascertained clearly that there is nothing new or great or comprehensive to be done. Vague language, both in speaking of the inconvenience of the present state of the law, and of the remedies to be brought to it, has been one, and not the least, of the causes which have hitherto deterred practical and moderate men from attempting to effect improvements; and if I have proved that the old and known course is also the best, if not the only course that admits of being practically pursued, I have at any rate proved something which was not universally felt or admitted before.

One or two further observations in support of my proposal appear necessary.

In making suggestions and devising plans for carrying out such a task as your Lordship has committed to me, there is some risk that in the endeavour to establish and adhere to a scientific arrangement and to respect abstract principles, one may overlook considerations which, though not important in theory, must in practice be strictly attended to if any beneficial result is to follow. I have therefore thought it my duty to keep steadily in view the fact that it is useless to propose any work which is not of such a nature and in such a form, that it can hope to be passed through two Houses constituted as the two Houses of Parlia-

ment now are, and with reference to the customs and feelings of the times, as well as to constitutional theory. It also appears to me that the distribution of the contents of such a collection as the Statute Book according to the most scientific analysis, is not likely to be the distribution which would offer the greatest facilities either to the public for ascertaining and acting upon the Law, or to the Legislature for dealing with in the way of repeal or alteration. These considerations neutralize some objections which would otherwise appear serious. It has been suggested (for instance) that the first thing to do in re-writing the Statute Law, is to keep rights and remedies distinct. To do this effectually would require, as a preliminary process, the cutting up and re-distribution of the whole of the Statute Law, and would make it scarcely possible to begin at any one point such a gradual re-writing of the Law as I have recommended: and besides, a strict adherence to any such arrangement would, I believe, be in fact inconvenient both to the public and the Legislature. The Law must be in such a form that it may be altered by isolated Bills in any particular, and by Bills which may be themselves discussed, altered, partially abandoned in their progress through the House, &c.; and any classification so abstract that the results of such alterations or abandonments in the course of debate could not be seen with tolerable clearness and ease, would be an obstruction to the course of business, and Bills would be passed in defiance of such a classification. I imagine that those who advocate any such classification as I have alluded to, unconsciously reserve to themselves a power of treating all new Acts of Parliament merely as resolutions or instructions from which they themselves are to make the necessary alterations in their Statutory Code. It is obvious that nothing of this kind is practicable without an entire change in the mode of passing Bills; and the arrangement of the Law must therefore be such that the Laws passed by future Parliaments in the way in which we know they will and must be passed, whether well or ill drawn, will not be absolutely incapable of amalgamating with the old.

Next, as to the introduction of amendments of the law into consolidated Bills. It is true that the draftsman has no authority from the Legislature to introduce such, and it would be more formally correct for him to make a mere digest of the existing law in the form of a Bill, and leave it to the Legislature to alter it; or at most to content himself with making a Report suggesting improvements. Practically, however, this would be a very inconvenient course; and I propose that the draftsman should be intrusted with discretion to introduce amendments in his consolidated Bill, only taking care to point out by a Report what are the points on which he has done so; for there is really no other way in which alterations of the law can be submitted to the Legislature with any prospect of being attended to. These are further grounds for not attempting to remodel the whole body of the Statute Law in the first instance, but taking groups of Statutes, gradually, and in a somewhat empirical manner. I contemplate re-writing as well as consolidating, for I believe there are several branches of the Statute Law comprised in single Statutes, which require to be amended quite as much as those which are scattered over several.

With reference to the observation I have made as to the necessity of preparing bills in such a form as to fit them to be passed by the Legislature, I may observe that it was found impracticable to obtain the attention of the Legislature to the whole digest of the Criminal Law, though twice brought into the House of Lords by one of the highest authorities in this country, and it was only when a portion of it, embracing one single head, was embodied in a Bill that the subject was practically entertained and discussed in a Select Committee.

As the foregoing conclusions have in a great measure received your Lordship's sanction, I propose that the residue of the year to which the appointment

of the Commission is at present limited, should be employed in preparing Bills on the principles above suggested: and several such Bills are actually in the course of preparation by the different members of the Commission, and will be ready to be delivered to your Lordship by the 1st of March next. Thus even if your Lordship should not think it expedient to organize a new Board on a permanent footing, there will be at least, as the result of this year's experiment, a practical plan sketched out for consideration, and some proof that it is the only practicable plan, and a certain number of Bills containing consolidation and improvement of the Law ready to be presented to Parliament, or to be submitted to others for revision and consideration.

In the discussion of this subject I have not at all entered into the consideration of a general digest of the whole Law, Common and Statute. I have viewed that important question as one quite foreign to the task on which I am engaged: but if the subject of a general digest or code should hereafter be determined on, I feel assured that what I here propose must be, under any circumstances, considered as the first process to be employed, and that a simplification and consolidation of the Statute Law, as well as a complete digest of the existing Common Law, must be the materials essential to the formation of any general digest or code. And further, I do not consider the point shortly adverted to in my former Report, as to how far it might be expedient to embody the Common Law relating to any particular subject in any consolidation or re-writing of the Statute Law. This has been attempted by Mr. Brickdale in his specimen of a digest of the law of distress, appended to my First Report, and seems to have been partially adopted by the Commissioners who made the revised Statutes of New York.

Here I may be allowed to observe that the course which I now recommend is mainly the same as that contemplated by Lord Bacon in his proposal for amending the laws of England.

With respect to the Common Law he proposed:—

"I. The compiling of a book *de antiquitatibus juris*.

"II. The reducing or perfecting of the course or corps of the common "laws.

"III. The composing of certain introductive and auxiliary books touching "the study of the laws."

And with respect to the Statute Law his proposals were in these terms:—

"1. The first, to discharge the books of those Statutes, whereas the case, by alteration of time, is vanished: as Lombards, Jews, Gauls, half-pence, &c. These nevertheless may remain in the libraries for antiquities, but no reprinting of them. The like of Statutes long since expired and clearly repealed; for if the repeal be doubtful, it must be so propounded to the Parliament.

"2. The next is, to repeal all Statutes which are sleeping and not of use, but yet snaring and in force; in some of those it will perhaps be requisite to substitute some more reasonable law instead of them agreeable to the time; in others a simple repeal may suffice.

"3. The third, that the grievousness of the penalty in many Statutes be mitigated, though the ordinances stand.

"4. The last is, the reducing of concurrent Statutes heaped one upon another to one clear and uniform law:" for which purpose he suggests that

" because this part of the work, which concerneth the Statute laws, must of necessity come to Parliament," there should be Commissioners named by both Houses, " yet not with a precedent power to conclude, but only to prepare and propound to Parliament."

From this it is probable that the only cases in which he contemplated *direct legislative action* for the purpose of what is now commonly called the *revision* of the Statutes were the case of the " Statutes not of use, yet snaring and in force," and the case of those of which " the repeal was doubtful." The " discharging " of the books of the " vanished " Statutes was to be merely done by omitting them from a proposed new edition; not in any way by a declaratory act. The rest of his proposal as to the Statutes is, first, to prepare and publish a new revised edition of them; a course which, for reasons already suggested, is probably no longer proper employment for a Royal or Parliamentary Commission; and secondly, gradually to prepare and introduce *consolidated Statutes* on the different branches of the law, combining in the consolidation such improvements as might suggest themselves; the course to which the preceding considerations point as probably the only one on which a Board can be usefully employed. The three proposals made by Lord Bacon as to the Common Law are also limited, I conceive, to proposed publications of text books for the convenience of the public, without giving them the sanction of an Act of Parliament; which, like the proposal for an edition of the Statutes, do not appear necessary for adoption at present, however desirable in Lord Bacon's time. The " reducing or perfecting of the course or corps of the Common Law" is not to be supposed to refer to any proposal for reducing the Common Law to an entire new code; for it is plain from the sentences which immediately follow that the only task contemplated was a digest of the Year Book Reports; and in a previous passage of the proposal Lord Bacon states as an *objection* to his plan that " labour were better bestowed in bringing the common laws of England to a text law, as the Statutes are," and in reply to it distinctly states that he considers such a digest or code objectionable, or at least impracticable; " I dare not advise to cast the law into a new mould." Yet, though Lord Bacon may be considered as an authority against such a code as would be considered a new casting of the law, it does seem that if the original difficulty of reducing the Common Law to a text had been got over, it would not be impracticable to give it that legislative sanction without which it would have no authority; at any rate I conceive that the objection so frequently urged that it would be dangerous to limit and fetter the Common Law by subjecting it to the rules of contruction applicable to Statute Law, might be obviated by enacting that such a code is to be considered as merely declaratory of the law, and providing that the same should be construed as if the same were part of the Common Law:—a rule of construction which it would often be convenient to apply to consolidated Statutes also.

No abstract rules can be laid down for the governance of a Board in the preparation of consolidated and amended Statutes, as regards their substance; as regards form, the points chiefly to be regarded will be, uniformity of style, distinct and complete repeal of all the Statutes superseded, (so as to effect revision of the Statute Book simultaneously with consolidation,) the division of enactments into as many brief and distinct articles as is practicable, the resolute avoidance of tautology, and generally such an arrangement as should offer the greatest facilities for future alterations of the law with reference to the actual practice and constitution of the two Houses of Parliament.

However considerable may be the relief and assistance given to the public by the consolidation of the existing Statutes, it is in the direction indicated in the last paragraph that I think improvement is both most needed and most

attainable,—I mean in the method of enacting *future* laws. When the Statutes are so far consolidated that the legislator can see at once, and with some completeness, to what extent a proposed new law will affect or disturb the existing law; and when the Statute Law is so arranged in short articles that alterations in it may be intelligibly and safely effected by mere addition, repeal, or substitution of articles on what may be called the standing law, it must follow that the process of legislation will be improved both in accuracy, rapidity, and ease, to a most important extent. The following mode of introducing such amendments is suggested in the joint paper of Messrs. Anstey and Rogers, which forms part of our First Report, "The existing Statute Law being once consolidated, all "further amendments should be made the object and occasion of a new edition "of the original Statute; and the amending Act should be supposed to remain "in force only until such new edition is duly and accurately made; which "done, the expiration of the Amending Act ought to be declared and enacted "by an 'Expiring Laws' Declaratory Repeal Act' to be passed periodically for "that purpose." The experience and practice of the Legislature of New York (remarked on at some length in the first Report) afford valuable assistance in arriving at just and clear views on these points.

The general improvement of future legislation forms, perhaps, no part of the subject more particularly referred to me, which is confined to the revision and consolidation of the existing Statute Law; but such general improvement is a subject which I cannot help contemplating in connection with the present task, particularly as it seems to me that it is in that direction that reform can be most effectually applied, and with the safest expectation of beneficial results: and if I may be allowed to extend my suggestions beyond the limits to which they have been hitherto confined, I should say that there is an employment for a board, or one or more persons, even more important than the revision of the existing Statute Law (namely), preparing or settling bills for the Government, and for such other parties as should choose to apply to them; and making reports on such bills not settled by themselves, as should be referred to them. As I observed in my former Report, "although the mode of passing "bills through either House would not admit of their being finally settled by a "board, yet I conceive much might be done in the original preparation of a bill, "as to the scheme of it, the fitting it to the existing law, the suggestion of the "aptest machinery, and of the completest technical language, which must in any "event tend to save the time of Parliament, and to render the measures more "complete; and probably in many cases the report of such a board as I suggest "might lead to the conviction that the proposed measure was not required, "having reference to the existing state of the law." I believe the establishment of some such board has formed part of every scheme and proposal hitherto propounded for the improvement of the Statute Law.

I may here observe that the benefits to be expected from the formation of such a Board have been anticipated by the advantages already derived from the appointment of Mr. Coulson as Counsel for the preparation of those Bills which are introduced under the direction of the Cabinet; the great improvement in the frame and language of the Statutes either prepared or revised by him has been acknowledged by all, and was especially alluded to by Lord John Russell in the House of Commons in a speech in which he paid a just tribute to the value of Mr. Coulson's labours; and if it were possible that Mr. Coulson could give his consideration to all Acts brought in, the Board I recommend would of course be unnecessary as far as regards future legislation.

I have already adverted to the expediency of annexing to all bills for the alteration of the Law a Report from the framers of it, explanatory of the motives

for the alteration, and the mode in which it is effected. Such a Report would operate beneficially in two ways; it would be an assistance to the members of the Legislature in understanding and discussing the measure; and it would frequently relieve Acts of Parliament from those long recitals which are now inserted, not because they are needed in the Act after it has passed, but because it is necessary to make some statements to Parliament before it can do justice to the Bill, and there is now no other form in which such statements can be made.

Before leaving this part of my subject, I would express a hope that too much will not be expected from the course now proposed of gradually re-writing the Statutes. Much, in the way of improvement may, I believe, be effected by competent hands in this way; but it is not to be supposed that any process can make the law of England a simple collection of plain abstract propositions, so that any stranger may buy the "Statute Book" and find out the law for himself, without assistance, without previous study, and without risk of error. Such a state of things seems to be actually contemplated by some; at least the difficulty felt by a stranger in extracting the law from the existing Statute Book is not unfrequently enlarged upon as a proof of the unsatisfactory nature of present arrangements; it is, however, unnecessary to say that no such consummation is to be expected, and that the laws of a country and an age like this must always be complex, voluminous, and even difficult, though they need not be either bad or ambiguous. Some just and suggestive remarks on this subject will be found in Mr. Coode's contributions to the First Report, at the beginning of his second paper, "on Digestion." It may be more reasonably urged as an objection to the gradual course I propose, that unless a comprehensive plan is laid down in the first instance, there is considerable risk that the best selection and arrangement of groups for consolidation will not be made, and perhaps after a Consolidated Act has been passed, it will be found that its contents ought to have been taken in connection with some other subject, or have been absorbed in some higher generalization. Admitting that it is possible, even probable, that such imperfections may occur, I can only say that I am firmly convinced that if the task is not to be commenced until a comprehensive plan has been matured in all its details, it will never be begun at all; and it is because I clearly see this, that I have ventured to say that my proposal is a practical one, and the only practical one. Such objections, therefore, are no reasons for not beginning. If the work of the present generation should by a subsequent one be treated as the materials for a more perfect code, it will be so much the better for posterity, and we shall be none the worse; it is not necessarily an objection to a proposed improvement to say that when completed it will only be made the foundation of a further improvement; the only fair question to ask is, whether the intermediate step can be dispensed with. In the present case I am satisfied that it cannot. The New York revised Statutes did not reach the present useful form until the Statutes had been several times revised and consolidated.

I have requested Mr. Rogers to draw up a paper containing a statement of the several groups of Statutes which relate to the same subject, and which he conceives may be properly embodied in separate consolidation Acts. This statement, although it is not of course to be considered as complete, is very useful as showing the present state of the Statute Book and the probable advantage which would arise from the process of consolidation. This paper is subjoined, and I think will show the great and accurate knowledge possessed by Mr. Rogers of the whole contents of the Statute Book. Another paper on the consolidation or revision of the Statutes relating to Property, entering into greater detail than the

nature of Mr. Rogers's Paper admits of, is in course of preparation by myself and Mr. Brickdale, and will be presented to your Lordship with my next Report.

The foregoing observations have reference merely to what are usually termed Public General Acts, but there is a large class of other Acts in which important portions of the public are as much interested as in the General Statutes, —as, for example, I am told that there are as many as from four to five hundred Acts relating to the City of London alone, and probably nearly 1,000 relating to the Metropolis generally, and the various particular parishes in it, which it would be expedient to revise and consolidate. And again, the several Acts specially relating to Ireland and Scotland have not been referred to, though they must, equally with those relating to England, be proper subjects for revision and consolidation.

Before concluding this Report, I would again refer to the recommendation contained in my first Report as to the preparation of General Acts on various subjects. A useful list of suggestions on this point will be found at p. 51. of "Papers relative to the drawing of Acts of Parliament" by Mr. Arthur Symonds, several of which have been adopted by the Legislature since the publication of those papers in 1838.

One other point requires notice: I do not propose to make the re-written or consolidated Statutes retrospective, so as to affect existing rights or past transactions. This will in some matters, as in the law relating to wills and settlements, estates tail, &c., postpone for a considerable period the whole benefit to arise from such re-writing or consolidation; but I do not see how it can be helped. I assume that the Legislature would not suffer the law to be altered as regards existing rights or past transactions; if therefore consolidated statutes were to be made retrospective, it would be necessary to make in every case two sets of provisions—one transitory for the past, the other permanent for the future;* and sometimes more than two. Thus, if a consolidation of the whole law relating to wills, retrospective as well as prospective, were determined on, it would first be necessary to re-enact the law concerning wills not affected by the Wills Act of 1837, then the law concerning wills affected by that Act, then the law concerning wills affected also by Lord St. Leonards' Supplementary Act of 1852, and finally to make a consolidated and amended Act for the future. It does not seem advisable to encumber the Statute Book with such re-enactments; and it is therefore proposed to let the old law remain with reference to all such existing rights or past transactions, and die away gradually for want of subjects on which it could operate: especially since it would be scarcely possible for a draftsman to make any material alteration in the bulk or arrangement of the old law, if required to make sure that its effect is not varied in the slightest degree in any case, foreseen or unforeseen.

In conclusion I beg to state, that if what I propose is adopted, the result, when the task is completed, will be that the whole of the existing Statutes will be consolidated in separate Acts, each containing one head or subject;—all Acts imperfect as to expression or otherwise will be revised and re-enacted,—the Statute Book will be cleared of all obsolete Acts,—all doubts as to whether any Act is or is not in force will be removed,—and a body of materials will be provided for any future digest or code. Thus all the practical benefits originally contemplated by your Lordship would, as I have previously observed, be in effect attained, and the parties engaged in this task would also have been use-

* See some observations by Mr. Coode on this subject in his papers contributed to the First Report.

fully employed in preparing and settling Bills, reporting on Bills not settled by them, and generally in superintending and influencing as much as possible the whole formal part of legislation with a view to uniformity, conciseness, completeness, and distinctness.

I have the honour to remain,
Your Lordship's obedient Servant,
H. Bellenden Ker.

Lincoln's Inn,
January 27th, 1854.

To the Right Honourable the Lord Chancellor,
&c. &c. &c.

APPENDIX.

An Analysis of Public General Acts so far as they relate to England; with some Suggestions for the Consolidation of Groups of Statutes.

The legislation of the last Session of Parliament has rendered alterations and additions necessary to the Statistical Account of the Statute Book presented to the Lord Chancellor in August 1853, and which included the Statutes passed from the 9th Hen. 3. to the end of the session of the 15th & 16th years of Her Majesty. Those alterations and additions have been made; and, subject to a complete revision of the Expurgatory List prepared by Messrs. Anstey and Rogers, and to a more detailed and critical examination of the Statutes contained in the List of Statutes in whole or in part in force, the following will afford a very nearly accurate view of the existing state of the Statute Book down to the close of the Session of the 16th and 17th years of Her Majesty:

Public General Acts - -	16,579
Local and Personal Acts - -	9,285
Private - - - -	14,268

Of the Public General Acts:

Acts repealed - - - - - -	2,726
Acts virtually repealed - - - -	2,667
Acts obsolete - - - -	436
Acts expired or virtually expired - - -	4,310
Acts relating exclusively to Scotland - -	430
Acts relating exclusively to Ireland - -	625
Acts relating exclusively to the Colonies -	403
Acts of a merely local or personal application -	2,473
	14,070

On the subtraction of this number (14,070) from the total number of Public General Acts, it will be seen that there are remaining in force 2,509 Public General Acts, relating some to the United Kingdom generally, others exclusively to England, others to Great Britain, and some few to England and Ireland.

The following Analysis of the Public General Acts in force has been prepared, in order to show, somewhat more in detail than was done in the last paper presented on the subject, the amount of legislative enactment on each branch of the law which exists for consolidation. In framing the classification of Statutes which the Analysis exhibits, the object which has been kept steadily in view has been the attainment of that most desirable improvement in the Statute Book proposed by Lord Bacon, "the reducing of concurrent Statutes, "heaped one upon another, to one clear and uniform law." This object is to be obtained by bringing into juxta-position all Statutes in *pari materiâ*, and by then reducing each group thus formed into one Act. The groups proposed in this Appendix, it is submitted, are for the most part suitable for immediate reduction and consolidation, upon the principle proposed. It will be seen that the several groups vary greatly in the quantity of materials for consolidation. This arises from the fact that some branches of the law derive their origin and force more from the common law than from the Statutes. The consolidation of such branches of law would probably be of less immediate advantage than that of others which are more independent of the common law. It must be borne in mind, as was observed in the former paper, that a large number of the Acts arranged in the several groups apply to many different subjects, and that therefore no inference of inaccuracy must be drawn from the fact that the total number of Acts noticed in the Analysis differs from the number (2,509) before stated to be the number of Public General Acts now in force relating

to the United Kingdom, or exclusively to England or Great Britain, or to England and Ireland.

Crown.

Authority, Style, and Title - - - - - - - 35.

Under this head are grouped the several Statutes which relate to *allegiance*, *coronation*, *regency*, *style*, and *succession to the Crown*. Some of these Statutes might perhaps be safely treated as virtually expired or obsolete, and the matter of such Acts as would remain might be reduced into one Act of very moderate length; but as they relate to questions of constitutional law, they, with others of a similar nature, grouped *infra* under title "General Restrictions and "Limitations of Prerogative," are those which may well be left untouched until all the Statutes of a more practical nature have been consolidated.

Royal Family, Privy Council, Household, and Officers - - - 50

Among the Acts in this group are the Royal Marriage Act, the Act regulating the precedence of the various members of the Royal Family, the sections in the Acts of Union with Scotland and Ireland affecting the Great Seal, the Acts and parts of Acts affecting the privy council, and several Acts regulating the duties of members of the household and of certain great officers of state.

Prerogatives and Duties - - - - - - -

Administration of justice (see *post* Divisions, "Administration of civil justice" and "Administration of criminal justice").

Defence of the Realm - - - - - - - - 48

Army (including prizes, pensions, Chelsea Hospital). The general discipline of the army is regulated by the annual Mutiny and Desertion Act; but there are many Acts and parts of Acts which relate to the distribution of prize money, the management of Chelsea Hospital, and the pay and pensions due to the army, all of which subjects might well be embraced in one Act; and indeed one or two attempts at partial consolidation were made in the reigns of George the Fourth and William the Fourth, but they do not seem to have been complete, and have been since altered in many of their provisions.

Fortifications and Ordnance - - - - - - 26

These Acts relate principally to lands vested in the principal officers of Ordnance for the purpose of military defences, and might readily be reduced to one Act.

Militia - - - - - - - - - - 16

Upon a critical examination of these Acts, many of their provisions would doubtless be found to have been superseded by the provisions of 15 & 16 Vict. c. 50., but many others are in actual operation. The 15 & 16 Vict. c. 50. is very incorrectly intituled "An Act to *consolidate* and amend the Laws relating to the "Militia in England."

Navy (including Prizes, Pensions, Greenwich Hospital, and Marines) - 50

The laws regulating the Navy were reduced into some order, though not "into one uniform Act of Parliament," as stated in the preamble, by the 22 Geo. 2. c. 33. Since that period a great number of Acts on the subject have been passed; but such as related to the pay of the navy were consolidated by the 11 Geo. 4. & 1 Will. 4. c. 20., the laws relating to the payment of Greenwich out-pensioners having been previously consolidated by the 10 Geo. 4. c. 26. Subsequent legislation, which has introduced necessary changes, has however quite destroyed any previous attempt at consolidation, and there are about the number of Acts stated in the margin, the provisions of which might be well reduced into one act.

Volunteers and Yeomanry - - - - - - 6

The laws affecting these branches of the national defences were consolidated by 44 Geo. 3. c. 54., but several Acts have been passed amending and altering many of the provisions of that Act, and have rendered fresh consolidation necessary.

Intercourse with Foreign States:—Ambassadors, Treaties and Conventions - - - - - - - - - 2

The Statutes referred to are, the 7 Anne, c. 12., protecting ambassadors and their servants from process against their persons and chattels, and the 11 & 12 Vict. c. 108., enabling the Crown to establish and maintain diplomatic relations with the Court of Rome. There are many Statutes passed to give effect to treaties with particular States for suppression of the slave trade, and other matters, but they are not enumerated, as they were passed merely to meet particular emergencies, and are hardly capable of general consolidation.

General Restrictions and Limitations of the Prerogative - - - 24

These Acts are many of them simply declaratory of the Common Law. As observed of the Acts classed, *supra*, under "Authority, Style, and Title," and which are of a very similar character, they may well be left for consolidation until after those of a more immediately practical character have been consolidated.

Crown Lands, Forests, Mines, Wrecks, &c. - - - - - 40

The Acts relating to the *ordinary* revenue of the Crown have not been grouped under the division "Finance," as it is competent to the successor to the Crown to resume its possession. The number of Acts stated in the margin is probably much below the number of Acts on this subject; but many are of so strictly a local character that they have been omitted from the enumeration. Those which relate to royal mines, wrecks, and other small branches of the ordinary revenue are very few. Those which relate to the Crown Lands seem, however, to be in considerable confusion, probably owing to the great changes which have been introduced into the management of the land revenue since the Consolidation Act, 10 Geo. 4. c. 50.; and as that Act excepts from its repealing power all existing laws so far as they affect the Duchy of Lancaster, five of the Acts, which are by that Act repealed as to the Crown Lands generally, are still in force as to that Duchy. The recent division also of the office of Woods and Forests into two separate departments, one for the management of the land revenues, and the other for control of public works, has rendered it still more difficult to arrive at a satisfactory conclusion as to the existing state of this branch of the law.

PARLIAMENT.

Constitution, Authority, and Style of Parliament - - - 5

Of these, two are sections of the Acts of Union with Scotland and Ireland.

Assembly, Dissolution, Prorogation, and Adjournment - - - 18

Of these, seven are sections of Acts relating to mixed subjects; the rest relate exclusively to Parliament.

Privileges of Parliament - - - - - - - 17

Of these, five are sections of Acts embracing other subjects.

Royal Assent - - - - - - - - 2

33 Hen. 3. c. 21. ss. 3, 4. The King may give his assent to Bills by letters patent under his Great Seal, signed with his hand, and notified in his absence in the higher House.

33 Geo. 3. c. 13. Date of Royal Assent to be endorsed on Acts by Clerk of the Parliament.

Form and Construction of Acts - - - - - - 4

The Acts here enumerated are 20 Geo. 2. c. 42. s. 3., which enacts that the word "England," in any Act of Parliament, shall be construed as comprehending Wales and Berwick-upon-Tweed; the 33 Geo. 3. c. 13., which requires the Clerk of the Parliament to endorse on every Act the date of the royal assent, from which time, if no other be named, the Act is to take effect; the 48 Geo. 3. c. 106., which gives a retrospective power to Acts continuing expiring laws, where the continuing Act has not received the royal assent till after the expiration of the Act intended to be continued; the 7 & 8 Geo. 4. c. 28. s. 14., which enacts rules for the interpretation of all criminal Statutes, and the 13 & 14 Vict. c. 21., which contains several pro-

visions for shortening the language of Acts. To these Acts may be added the various Clauses Consolidation Acts, 8 Vict. cc 16., 18., and 20.; 10 Vict. cc. 14., 15., 16, and 17.; 10 & 11 Vict. cc. 34., 65., and 89. The principles upon which these Acts have been framed have already been found of considerable advantage, particularly in shortening Local and Personal Acts. And their beneficial effects might probably be greatly extended by their simplification, after digesting the decisions of the courts upon the construction to be put upon many of their provisions.

House of Lords:

Members - - - - - - - - - 16

In this number are included those Acts which relate to the election of Scotch and Irish representative peers, to the precedence of peers, and to the privilege of peerage; and the rotation of Lords Spiritual consequent on the erection of the see of Manchester.

Officers - - - - - - - - 2

5 Geo. 4. c. 82. for regulating the office of Clerk of the Parliament, and the 12 & 13 Vict. c. 78. ss. 3. and 4. providing for the appointment of a taxing officer.

Orders and Proceedings - - - - - - - - 8

Four of these relate to the criminal jurisdiction of the House over members of the peerage, and the rest to Private Bills.

House of Commons:

Members - - - - - - - - 185

This large number of scattered provisions regulating Elections, the qualifications of Electors and Members, their privileges, the oaths to be taken by them, and the trial of controverted elections, might readily be collected into one Act of no great length. The number given includes the Acts regulating the election of members for Scotland and Ireland. About sixty different provisions (mostly sections of Acts not otherwise having reference to Parliament) disqualify or render elegible for election the holders of certain public appointments.

Officers - - - - - - - - - 16

The duties to be performed and the fees to be taken in the conduct of private bills form the bulk of these provisions. They are capable of much simplification.

Orders and Proceedings - - - - - 6

These also relate principally to private bills.

Finance.

Sources of Revenue:

Customs:

Duties - - - - - - - - - 3

If the 16 & 17 Vict. c. 106. is to be considered as virtually repealing c. 54. of the same session, then these may be considered as reduced to two; and if the c. 107. ss. 324, to 331. of the same session is to be treated as virtually repealing as to customs the 15 & 16 Vict. c. 47., then these Acts are reduced to one. It would, however, seem to be more convenient if the tariff of customs duties were set out in a schedule to the Act regulating their management, and thus the whole law of the customs department reduced to one Act.

Regulation and Management - - - - - 2

These are, the 8 & 9 Vict. c. 85. ss. 2. and 3. authorizing the appointment of Commissioners of Customs, and 16 & 17 Vict. c. 107., "The Customs Consolidation Act, 1853." There are also some other Acts which relate to customs together with other public departments, such as the 9 Geo. 4. c. 25., allowing other than regularly admitted attornies to act as solicitors to public boards; the 5 & 6 Will. 4. c. 62., substituting declarations for oaths in certain departments of the state; the 6 & 7 Will. 4. c. 28. and 1 & 2 Vict. c. 61. regulating securities to be given by public officers, &c.; and there are some few others which affect customs incidentally, as the Acts regulating the tonnage duties in the port of London, and the Acts preventing the growth of tobacco in the United Kingdom.

Excise (Management and Duties) - - - - - - 120

This number is exclusive of any of the provisions of the Customs Acts which contained enactments relating to the Excise, antecedent to the 7 Geo. 4. c. 48. and the 7 & 8 Geo. 4. c. 53. By sec. 52. of the former Act any of the provisions of the 386 Acts, wholly or partly repealed by the 6 Geo. 4. c. 105., which have any reference to the excise, are *revived;* and from the terms of the repealing section (127.) of 7 & 8 Geo. 4. c. 53., which was drawn professedly as a Consolidation Act, it is most difficult to ascertain, in the multifarious provisions of the prior Acts, what Acts and parts of Acts may not have been left in force, section 127 of the Act 7 & 8 Geo. 4. only repealing prior enactments which were "repugnant to or inconsistent with" the regulations prescribed by that Act. The power also of superseding statutory regulations by board orders adds to the difficulty of ascertaining the precise state of this branch of the statute law. As many important branches of trade are affected by excise regulations, it is submitted that the Acts regulating this branch of the revenue might beneficially be at once reduced into one Act, or into one Act for each commodity or trade liable to excise duties.

Fees on the Administration of Justice - - - - - 7

These are sections of Acts for the general regulation of offices in Courts of Justice, which require the surplus of fees to be paid into the Consolidated Fund. The various sections of the numerous Acts for regulating the Courts which authorize the fees to be received from suitors are not included in this number.

Post Office - - - - - - - - 14

The first of these, 7 Will. 4. and 1 Vict. c. 32., repeals all former Acts on this subject; c. 33. of the same session consolidates the provisions necessary for the management of the Post Office; c. 34. regulates duties of postage; c. 35. regulates the sending and receiving letters free. The ten remaining Acts, with the exception of 7 Will. 4. and 1 Vict. c. 36., which consolidates laws relating to offences against the Post Office, and which is not included in the number, are Acts subsequently passed, altering and amending the first enumerated Acts. Those sections of Acts which relate to postage stamps are also included in the number given, *infra,* under the division "Stamps."

Stamps - - - - - - - - 130

Although the stamp duties were consolidated by the 55 Geo. 3. c. 184., yet there are many parts of Acts of a much earlier period which relate to those duties still remaining in force, or the virtual repeal of which is too doubtful to be relied on. Since the 55 Geo. 3. c. 184. (1815) Statutes have been almost annually accumulated, till the amount of intricacy and confusion in this branch of the Statute Law is probably greater than in any other. Some relief, however, has been afforded by the 13 & 14 Vict. c. 97., especially by the provisions of section 14, which has enabled parties, by the payment of a fee of 10*s.*, to obtain an authoritative opinion from the solicitor to the Stamp Office as to the proper amount of stamp duty to be paid in respect of "deeds and other instruments;" and by the payment of the stamp duty so advised as necessary, to be secured from the rejection of such "deeds and other instruments" when offered as documentary evidence, on the ground of the insufficiency of the stamps. The evils and difficulties which remain are, however, great; and it is submitted that the existing provisions might be much simplified, and the whole reduced into one Act.

Taxes:

Assessed Taxes - - - - - - 40

Of these at least twenty-five relate to the general management and collection of these taxes. The law regulating the duties on carriages, horses, mules, dogs, servants, hair powder, and armorial bearings was much simplified by the Act of last session (16 & 17 Vict. c. 90.) There are still, however, as many as a

dozen separate provisions regulating the game duties. The Acts regulating the assessed taxes generally might be conveniently reduced into one Act, in which the schedule to the Act of the last session might be adopted as to the duties.

Land Tax - - - - - - - 39

These Acts are in a state of great complexity, and occasion much trouble and expense to those desirous of redeeming the land tax. It is submitted they could be advantageously at once reduced to one Act.

Taxes:

Property and Income Tax - - - - - - - 10

Appropriation of Revenue:

Annuities and Grants to Royal and Eminent Persons - - - 42

These grants being from the public funds are treated as Acts affecting the public generally, although practically, excepting as to the section granting the annuity or sum of money, each Act is rather in the nature of a settlement, securing the income derived from the grant to the family of the grantee. In some cases, as in the case of the late Duke of Wellington and Lord Nelson and some others, several Acts relate to grants to the same person.

Appropriation and Supply, Acts of the late session - - - - - 5

Civil List - - - - - - - - - 4

Grants for various public purposes - - - - - 50

This number includes only those Acts under which grants by way of loan are made. Acts making absolute grants may be said to have virtually expired when the money has been paid.

Salaries and Pensions (Official and Judicial) - - - - 24

The salaries of several of the judges and officers of the Court of Chancery are paid out of the suitors' fee fund. The Acts making such salaries charges on that fund are not included in the number here stated.

Management of the Revenue:

General Regulations - - - - - - 30

These Acts are capable of considerable simplification.

Officers - - - - - - - - 16

These provisions may be well reduced to one Act.

Public Accounts - - - - - - - - 16

The first of these Acts is 21 Geo. 3. c. 48., the latest 14 & 15 Vict. c. 62. The whole number might be much simplified by reduction into one Act.

Procedure on Revenue Side of Court of Exchequer - - - 36

About half of this number were passed prior to the accession of William and Mary, and are chiefly declaratory of or in restraint of the Common Law Prerogative touching the recovery of "The King's Debts." The enactments since that period, however, are directed to adapting the exchequer procedure to the modern system of finance. They are somewhat complex, and some are merely sections of Acts of more enlarged purport. They might be with no great difficulty reduced into one Act.

National Debt - - - - - - - - - - - - 200

Mr. Anstey is preparing a bill for the consolidation of these Acts. Their number is here probably somewhat understated. The Acts are generally very lengthy and occupy a large portion of the Statute Book. Their reduction into one Act will greatly facilitate the consolidation of other portions of the Statute Law affecting the National Finance.

Currency - - - - - - - - 36

Under this group are collected the Acts regulating the mint, the coinage, and the purchase and sale of bullion. They are capable of an easy reduction into one Act.

PUBLIC ECONOMY.

Charities and Benevolent Institutions - - - - - - 33

This number is made up in great part of sections of Acts relating to more general subjects. It does not include the Mortmain Acts,

which are grouped under "Real Property." The Charitable Trusts Act of last session, which is included in the number, has modified many previous provisions, but did not aim at the consolidation of the law on the subject, which might be advantageously reduced to one Act.

County Rates - - - - - - - - - 7

By the 15 & 16 Vict. c. 81. the Acts regulating the assessment and collection of county rates are consolidated. Several provisions as to right of exemption from the rate, and as to its application, appear not to have been consolidated.

Education, Science, and the Fine Arts - - - - - 30

Of these, nine relate to the Universities of Oxford and Cambridge, twelve relate to colleges and schools, the rest relate to literary and scientific societies, public libraries and museums, and art unions. The Copyright Acts are not included in this number, but are grouped under "Rights of Private Persons."

Fairs and Markets - - - - - - - - 9

These are capable of an easy reduction into one Act.

Fisheries - - - - - - - - - 20

This number does not include those Acts which relate to the Greenland and Newfoundland Fisheries.

Factories. See *infra*, Manufactures and Mines.

Friendly Societies - - - - - - - - 8

Under this title are also included benefit building societies and industrial and provident institutions. The Acts relating to friendly societies have been twice consolidated; once by the 10 Geo. 4. c. 56., again, 13 & 14 Vict. c. 115. But the Acts repealed in each case were kept alive as to societies enrolled under them, and which societies, it is believed, amount to upwards of 8,000 in number. And section one of 13 & 14 Vict. c. 115. provides that the repeal of the Acts relating to friendly societies should not affect the benefit building societies established under 6 & 7 Will. 4. c. 32. These Acts are capable of great simplification and reduction.

Highways, Bridges, and Turnpike Roads - - - - 71

The Acts relating to highways were consolidated by the 5 & 6 Will. 4. c. 50.; those relating to turnpike roads by 3 Geo. 4. c. 126.; those relating to bridges have not been consolidated, and, although not very numerous, commence as early as Magna Charta, c. 15. Since the Consolidation Acts, 3 Geo. 4. c. 126. (*Turnpikes*), and 5 & 6 Will. c. 50. (*Highways*), a great number of enactments have been passed materially amending and altering those Acts, and many of such amendments have been effected by sections in Acts in which the subject of highways or of turnpike roads occurs but incidentally. All of these provisions might with much advantage be reduced to one Act.

Houses of Entertainment and Places of Public Amusement - - - 14

The 9 Geo. 4. c. 61. reduced the then existing enactments regulating the granting of licences to innkeepers to one Act, but left in force some previous provisions as to the forfeiture of licences. The 11 Geo. 4. and 1 Will. 4. c. 64., which provides regulations for the general sale of beer, has been since amended and altered in several of its provisions. Music and dancing licences and theatres are regulated by separate Acts; and billiard licences are granted under section 10 of 8 & 9 Vict. c. 109. One Act might contain all the necessary provisions under this head.

Inland Navigation - - - - - - - - 13

Two of these Acts relate as well to canals as to navigable rivers, other two of them enable canal companies to become carriers on their canals, and the rest relate to rivers. Amongst the local and personal Acts, those under which canals have been formed and various rivers rendered navigable would form a large class. Like railway Acts, they create many substantive felonies and misdemeanors. These latter provisions might well be consolidated, as the same principle would apply to offences of the same class, whether

the canals were in Lancashire or in Somersetshire. This principle is admitted by 7 & 8 Geo. 4. c. 30. s. 12.

Insurance (Life, Fire, Marine) - - - - - - - 10

Of this number two relate to life assurances, one to fire, and the rest to marine assurance. The Acts relating to the stamps on assurances are not included in this number.

Joint Stock Companies - - - - - - - 13

The 7 & 8 Vict. c. 110., for the registration, incorporation, and regulation of joint stock companies has been since amended, and the 7 & 8 Vict. c. 111., the original Winding-up Act, has been most materially affected and altered by subsequent Acts. Thus we have numerous decisions of the Courts upon the construction to be put upon these Acts. Much simplification may be attained by their consolidation and reduction into one Act.

Lunatics, Lunatic Asylums, and Idiots - - - - - 20

The laws affecting lunatics seem to have been divided into two classes; those which regulated the care of lunatics having property, and those which provided for pauper and criminal lunatics. By the Acts of the late session the law in both its branches has been much simplified, chapter 70, "Lunacy Regulation Act, 1853," having greatly amended the laws regulating procedure in lunacy, and the care of lunatics so found by inquisition; whilst cap. 96. amends the 8 & 9 Vict. c. 100, for the care and treatment of lunatics, and cap. 97. consolidates the law as to county and borough lunatic asylums, and the care and maintenance of pauper lunatics. There are, however, many sections in Acts upon various subjects by which provisions are enacted which regulate the mode of dealing with the rights of lunatics in numerous instances, but these sections are included in the number of enactments here given. The entire law of lunacy it is submitted might be advantageously reduced into one Act.

Manufactures and Mines:

With the exception of a few Acts regulating the right of pre-emption in the Crown of gold and silver found in mines, and which Acts are enumerated under "Crown," and certain enactments which regulate the cost-book system enumerated under Joint Stock Companies, and some excise regulations, the Acts under this head having for their object the protection of the rights of master and workman, and the preservation of the health of the latter, are grouped under the next title.

Master and Workmen - - - - - - - 28

These provisions have become intricate by an accumulation of legislation. A draft bill is in course of preparation by Mr. Rogers for their simplification and consolidation.

Mercantile Marine - - - - - - - 50

Some of these provisions are sections of Acts relating to subjects of a more general character; but the law on this subject greatly requires careful consolidation. Attempts have been made to consolidate portions of it, as by the 7 & 8 Vict. c. 112., 8 & 9 Vict. c. 89., 12 & 13 Vict. c. 33., amended by 14 & 15 Vict. c. 1., and repealed and superseded by 15 & 16 Vict. c. 14., since amended by 16 & 17 Vict. c. 84., 9 & 10 Vict. c. 100., amended by 11 & 12 Vict. c. 81., and repealed and superseded by 14 & 15 Vict. c. 79. None of these attempts, however, appear to have been thoroughly successful; whilst the whole subject might well be reduced to one Act; and it was proposed by Mr. Bellenden Ker that a bill for that purpose should be prepared by Mr. Rogers; but as it was understood that a similar bill was in course of preparation under the direction of the Board of Trade, the draft bill of Mr. Rogers was discontinued.

Municipal Corporations - - - - - - - 60

The 5 & 6 Will. 4. c. 76. (the Municipal Reform Act) repeals all former Acts inconsistent with its provisions. But several of the earlier Acts not being inconsistent with the provisions of that Act remained and still remain unrepealed. Since the 5 & 6 Will. 4. c. 76., numerous Acts have been passed for its amendment and alteration, the latest

of which is chapter 79. of the late session. A large proportion, however, of the number of Acts and parts of Acts here stated consists of individual sections of Acts relating to the subject, yet having for their objects other matters than ordinary municipal regulations. The Acts in existence might very advantageously be simplified and reduced to one Act.

Police:

Metropolitan Police - - - - - - 10

Since the passing of 10 Geo. 4. c 44., under which the present metropolitan police force was established, many amendments have been introduced, as well in the regulation of the force as of the police courts. The Acts on the subject are capable of an easy reduction into one Act.

Rural Police - - - - - - - 30

Under this head are included the Acts and parts of Acts regulating the powers and duties of constables generally, also the Town Police Clauses Act, 1847. There are many Acts, some among the public general, and others among the local and personal, regulating the police of several of the large towns.

Poor - - - - - - - - - - - - - - 120

This number probably understates the amount of legislation on the subject. It is to be regretted that when the 4 & 5 Will. 4. c. 76., "For the Amendment and better Administration of the Laws relating to the Poor in England and Wales," was passed, the law had not been consolidated; but although the law was much altered by that Statute, a large number of the earlier Acts were left in force, and many of them, including some of the provisions of the 43 Eliz. c. 2., are in actual operation at this day. Before these Acts are consolidated, it would now, however, be better to determine what change in the law of settlement has become expedient, inasmuch as the final determination of that question must most materially affect the whole system of poor law. There are a very large number of local and personal Acts on this subject, which might be most advantageously generalized.

Professions and Trades - - - - - - - - - - 43

The laws regulating the profession of the law are excluded from this number. The laws regulating the medical profession, and which commence with 3 Hen. 8. c. 11., are numerous and complex. It is submitted that the law which regulates each profession and each trade should be comprised in one Act.

Public Health - - - - - - - - 23

Some legislation on this subject occurs at an early period, as the 12 Ric. 2. c. 13., for the removal of nuisances in or near towns, and the 4 Hen. 7. c. 3., prohibiting butchers to kill beasts within any walled town, except Berwick and Carlisle; but these Acts would appear to have been ill enforced. A considerable amount of modern legislation is in force upon the subject. The principal matters upon which separate legislation has taken place have been vaccination, the regulation of common lodging houses, the prevention of the spreading of contagious diseases among cattle, and the sale of diseased food, the provisions for providing extra-mural interments, and the Acts establishing and conferring powers on the General Board of Health. The Act establishing the General Board of Health has been altered and amended by other Acts, and by the various supplemental Acts which have been since passed. In addition to the general legislation on the subject, there are sections of other Acts, such as the Towns Improvement Clauses Act, 1847, which have an important bearing upon this subject. The large number of local and personal Acts which have been from time to time passed conferring powers upon local authorities the extent of whose jurisdiction is often confined to very narrow limits, creates difficulties and confusion in any attempts to generalize the law upon the subject. As the Acts upon the several matters collected under this group have a common object, namely, the preservation of the public health, and the enforcement of the

provisions of all of them must be more or less under the supervision and control of Her Majesty's Secretary of State for the Home Department, it is submitted that much advantage might be derived from their reduction into one Act. If this were done it would be desirable to revise the local and personal Acts which bear upon the subject.

Railways - - - - - - - - - 18

Of this number eleven are Acts (including 8 & 9 Vict c. 20., Railway Clauses Consolidation Act, and the 14 & 15 Vict. c. 64., transferring powers of Railway Commissioners to Board of Trade,) relating to the present management of railways, as to their construction, dissolution of companies, regulation of companies when formed, and conveyance of troops and the mails. Of the remaining number one is an Act for the maintaining of gates where railways cross highways; one is an Act restraining the sale and leasing of railways; the rest are separate sections which especially relate to railways, but which are to be found in Acts on more general subjects. No generalization of this branch of the laws would be thoroughly effective without a careful revision of the special powers conferred by local and personal Acts.

Savings Banks - - - - - - - 8

The law on this subject was consolidated by the 9 Geo. 4. c. 92.; but that Act has since been amended by the 3 & 4 Will. 4. c. 14., the 7 & 8 Vict. c. 83., 14 & 15 Vict. c. 102. section 38., and the 16 & 17 Vict. c. 45., which last repeals a great part of 3 & 4 Will. 4. c. 14. and some sections of 7 & 8 Vict. c. 45. In addition to these Acts, are 5 & 6 Vict. 71., establishing Military Savings Banks, and 8 & 9 Vict. c. 27., and sections 2, 3, and 6 of 12 & 13 Vict. c. 71., amending and extending the provisions of that Act.

Sewers, Drainage, and Buildings - - - - - 25

The existing legislation on the subject of sewers commences so early as the 23 Hen. 8. c. 5., which is made perpetual by the 3 & 4 Edw. 6. c. 8., and explained by 3 Jac. 1. c. 14. There are also eleven Acts, passed since that time, in force. Four of these relate exclusively to the Metropolitan Commissioners of Sewers, and one to the City of London. There are eight Acts relating to drainage, six of which have for their object the enabling landed proprietors to borrow money for the purpose of drainage on the security of their estates; but such Acts prescribe regulations as to the works on which the money so raised is to be expended. There are also a great number of local and personal Acts relating to inclosures and drainage; and 3 & 4 Will. 4. c. 35. provides for the recovery of rates, after final award, where powers under particular Acts are incomplete. There are also many provisions as to drainage in the Building Act, 7 & 8 Vict. c. 84. There are three Building Acts, two of which relate exclusively to the metropolis. Many local and personal Paving Acts also affect the management of buildings in the course of their erection. One Act might contain all the provisions contained in the Acts under this group, unless it were thought advisable that the provisions applying exclusively to the metropolis should be contained in a separate Act. Under the Drainage Acts the Copyhold and Inclosure Commissioners are appointed to discharge duties which would seem rather to appertain to commissioners of sewers. This has possibly arisen from the supposition that the Inclosure Commissioners have acquired experience in the laying out of watercourses over common lands when in course of inclosure.

Slavery and Slave Trade - - - - - - 15

This number does not include the numerous Acts passed to give effect to individual treaties and conventions for the suppression of the Slave Trade. A large number of the provisions of the Acts for the abolition of slavery may be treated as virtually expired. The whole of the provisions necessary on the subject might be reduced to one short Act.

Statistics - - - - - - - - 12

These include the Registration Acts and the Acts regulating the calendar.

Weights and Measures - - - - - 4

One of the number is a declaratory chapter of Magna Charta. One is 5 & 6 Will. 4. c. 63., regulating weights and measures generally. The weights used in weighing gold and silver coin are regulated by 14 Geo. 3. c. 92., amended by 15 Geo. 3. c. 30.

Rights of Private Persons.

Absolute Rights:

Liberty, Security of Person, Property, and Reputation - - 56

With the exception of the *Habeas Corpus* Acts, and the 6 & 7 Vict. c. 96. (Protection from Defamation) and 9 & 10 Vict. c. 93. (Compensation for Injuries of the Person by Accident), the Acts comprised in this number are chiefly declaratory of the common law, and in restraint of an undue exertion of the prerogative. They date from Magna Charta to the Act of Settlement. Their consolidation may well be left till a generalization or digest of the whole law, as well common law as statute, is undertaken.

Rights arising from Domestic Relationships:

Husband and Wife - - - - - - 36

The Acts included in this number relate, with the exception of five Acts which relate generally to the effect of marriage on rights to property, to the celebration of marriage; seven Acts relate exclusively to marriages contracted in England; five to marriages wherever contracted by British subjects; three to marriages contracted by British subjects in British dependencies or in foreign countries; and the remaining number to marriages contracted in particular churches and chapels.*

The Acts which relate to "Dower" or "Curtesy" are enumerated *infra* under title "Real Property."

Parent and Child - - - - - - 4

Of this number, 2 & 3 Vict. c. 54. provides for the access of the mother to her child, and secures to her the custody of her child whilst it is under seven years of age. The other Acts of the number are the earlier Acts which relate to disputed bastardy. The later Acts on the subject of bastardy have reference to the maintenance of bastard children, and are grouped *supra* under title "Poor."

Guardian and Ward - - - - - - - 4

The 12 Car. 2. c. 24., abolishing wardship as an incident of tenure *in capite*, leaves it as it stood at common law (declared by the statute of Marlbridge, 52 Hen. 3. c. 17. and 28 Edw. 1. st. 1.), an incident of tenure in socage, except where under sections 8 and 9 of the Act of Car. 2., the parents of the child shall by deed or will have disposed of the guardianship. But wardship in socage ceases when the heir is fourteen years of age, at which age also (except in the case of an heir apparent, when it continues till twenty-one,) the guardianship of nurture, which the common law gives to parents, ceases. At this age a child acquires the right to choose its own guardian, till attaining the age of twenty-one. The 2 & 3 Vict. c. 54. secures the custody of children under seven years of age to their mother. These provisions might be reduced to one Act, which might also remove many questions which may arise upon wardship in socage, and extend the period of wardship and of guardianship of nurture till the child attains the age of twenty-one. There are some other enactments which bear on this subject,—not in this number,—such as 3 & 4 Vict. c. 90., which enables the Court of Chancery to give the care of infants *convict* to persons willing to take charge of their education, and some sections of Acts which enable guardians to give consent of their wards in certain dealings with their property.

Master and Servant. The Acts on this subject are grouped *supra*, title "Master and Workman."

* Acts applying exclusively to marriages contracted in Scotland and Ireland are not included in this number.

Rights in relation to Property:

Real Property - - - - -

The whole of this branch of the law is so much regulated by the common law that a consolidation of the statute law alone would form but a fragment of the law.

Alienation - - - - - 14

This number includes the statutory provisions of a general character affecting the transfer of real estate. It will be seen that some particular instruments of transfer are grouped separately.

Ancient Demesne - - - - - 3

These, with the other groups which relate properly to tenure, might be comprised in one Act, or in one chapter of a Statute of Real Property.

Attornment - - - - - - 3

These provisions might form one section of an Act regulating alienation.

Commons - - - - - - 20

This number includes the general provisions for the inclosure of commons and common fields, and which might advantageously be consolidated and reduced to one Act, and which, were a Statute of Real Property determined on, might form a chapter of the Statute.

Copyhold - - - - - - 13

This number includes the Acts for the gradual enfranchisement of copyhold lands and manorial rights. The provisions have become somewhat numerous and complex, and might well be contained in one Act, or in one chapter of a Statute of Real Property.

Curtesy - - - - - - - 2

These Acts might form two sections of an Act regulating Estates, or of a chapter Estate of a Statute of Real Property.

Descent - - - - - - - 8

These enactments might form the subject of an Act or chapter, or a series of sections of a chapter.

Devise - - - - - - - 2

Mr. Brickdale has prepared a draft bill to consolidate and amend the law of wills, and there seems no good reason for separating the enactments regulating the devise of real estate from those which govern bequests of personalty, unless a Statute of Real Property were determined on, when the separation would appear to be inevitable.

Dower - - - - - - 14

These enactments might advantageously be reduced to one Act or chapter, or into a series of sections of a chapter.

Estate - - - - - -

Although the enactments relating to estates in land might well be reduced to one Act or chapter, yet without a consolidation of the common law the statute would be but fragmentary.

At will - - - - - - 2

Contingent interests - - - - 1

Contingent remainder - - - 1

For years [*see post*, "LEASE"].

For life - - - - - - 6

Fee tail - - - - - 5

Reversion - - - - - 5

Fines and Recoveries - - - - - 3

3 & 4 Will. 4. c. 74. provides for the abolition of, and for the substitution of more simple modes of assurance. 5 & 6 Vict. c. 32. and 11 & 12 Vict. c. 70. relate to fines and recoveries levied and suffered before the passing of 3 & 4 Will. 4. c. 74.

Fraudulent Assurances - - - - - 13

These Acts might form a separate Act or chapter, or a portion of the Act or chapter, on alienation.

Gavelkind - - - - - - - - 2
Inrolment - - - - - - - - - 5
Joint Tenancy and Tenancy in Common - - - - 3
Lease - - - - - - - - - 14
Only the enactments which relate to leases generally are included in this number. Leases by particular classes of persons, as ecclesiastical leases, are grouped with the particular classes of persons. These enactments might form a separate Act or chapter, or a series of sections, under an Act or chapter relating to "Estate."
Mortgage - - - - - - - 11
These provisions might be reduced into one Act or chapter
Mortmain - - - - - - - 18
One Act or chapter might comprise these provisions.
Partition - - - - - - - - - 5
Possession - - - - - - - - 17
In this number are included the summary remedies for the recovery of possession.
Prescription. *See*, as to tithes, rents, advowsons, &c., *infra*, title "Limitation of Actions," p. 19.
Registration - - - - - - - - 9
Rent - - - - - - - - - 40
This number might advantageously be reduced to one Act or chapter.
Tenure - - - - - - - - 1
The 12 Car. 2. c. 24. Ancient Demesne, Copyhold, and Gavelkind have been made the subjects of separate heads.
Trust Estate - - - - - - - - 25
These Acts are capable of much simplification.
Warranty - - - - - - - - 8
Waste - - - - - - - - - 10
The enactments might be reduced to one Act or chapter.

Personal Property:
Administration. *See* Executors and Administrators.
Annuity - - - - - - - - 4
The Acts comprised in this number are 53 Geo. 3. c. 141., amended by 3 Geo. 4. c. 92. and 7 Geo. 4. c. 75., requiring all grants of annuities to be inrolled, and protecting infants against such grants, and 4 & 5 Will. 4. c. 22. s. 2., rendering annuities (*inter alia*) under deeds and wills coming into operation after 16th June 1834 apportionable. The provisions of the three first-mentioned Acts might well be reduced to one Act. The provision as to annuities in the 4 & 5 Will. 4. c. 22. s. 2., which applies equally to other periodical payments dependent on the duration of life, would probably more conveniently remain in an Act of apportionment as *infra*.
Apportionment - - - - - - - - 5
This number consists of one entire Act, 4 & 5 Will. 4. c. 22., and the following sections of other Acts:—section 15 of 11 Geo. 2. c. 19. (rent), s. 86. of 6 & 7 Will. 4. c. 71. (tithe-rentcharge), s. 50. of 4 & 5 Vict. c. 35. (rentcharge under Copyhold Enfranchisement Act), and s. 1. of 14 & 15 Vict. c. 25. (rent). There are also some provisions in Acts relating to poor's rates, &c. A general principle which should govern all such payments might be enunciated in one Act.
Bailment - - - - - - - - 4
This is one of those subjects upon which the statute law, until a general digest or code of the law, both statute and common, is arrived at, must be fragmentary. Considerable advantage, however, must accrue from all the positive legislation upon the subject being contained in one Act. The 4 Geo. 4. c. 83., 6 Geo. 4. c. 94., 7 Geo. 4. c. 7., and 5 Vict. c. 39. are here referred to. Other Acts, such as the Pawnbrokers' Act and Carriers' Act, have reference to particular trades.
Bills of Exchange and Promissory Notes - - - - - - 17
Several decisions of the Courts have given particular constructions to

many of the provisions of these Acts, and great care would be required, in the reduction of the provisions of the several Acts now in force into one Act, that such decisions were not disturbed. The whole subject is one, however, rather regulated by the custom of merchants, adopted by the *common law*, than by statute, although the statutes now in force, with certain amendments, might well be simplified and reduced to one Act.

Bonds - - - - - - - - - - 4

One Act of four sections would contain these scattered enactments.

Contracts - - - - - - - 9

These are certain fragmentary provisions upon the general law of contract, which, although capable of reduction into one Act, would require the most careful collation with the cases decided upon the existing enactments upon the construction of which the law has now become well settled, although somewhat scattered and dispersed through the reports. Two sections of the Statute of Frauds (29 Car. 2. c. 3.) are included in the number, the cases upon which alone would form an important chapter in any digest of the law of contracts.

Copyright - - - - - - - - - 19

This number of Acts arises from the copyright in each particular production being regulated by a separate set of Acts. Thus, two relate to *Books;* four to *Designs for ornamenting articles of manufacture;* two to *Dramatic pieces and musical compositions;* one to *Lectures;* four to *Prints and Engravings;* four to *Sculpture.* Two Acts relate to *International Copyright.* One Act might well contain all the necessary provisions for the protection of copyright, each class of productions forming the subject of a separate section.

Debts - - - - - - - - - - 10

This is another of those subjects which must be considered as fragmentary. The provisions here collected are principally those which render real estate assets for the payment of debts, the Acts relating to set-off and limitation of actions, and the recovery of interest after demand. There are some provisions which take away the right to recover debts, such as the 24 Geo. 2. c. 40. s. 12. (the Tippling Act), and some others. It is, however, very questionable whether such a title as debt, or "debtor and creditor," would be practicable as the subject of a consolidation Act, however necessary, in an analytical digest.

Fraudulent Assignments. See *ante* Fraudulent Assurances.

Patents for Inventions - - - - - - 5

The first provision in this number is section six of 21 Jac. 1. c. 3., saving letters patent for inventions from the enactments against monopolies. The other Acts are, 5 & 6 Will. 4. c. 83., 2 & 3 Vict. c. 67., 7 & 8 Vict. c. 69. ss. 2. to 7., 14 & 15 Vict. c. 82. s. 7., and the "Patent Law Amendment Act, 1852," 15 & 16 Vict. c. 83. The last-mentioned Act introduced the most important amendments in the law regulating the granting of patents; but it is to be regretted that it did not consolidate the previous statute law on this matter, as the subject is one peculiarly capable of reduction into one Act.

Stocks and Dividends - - - - - 3

1 & 2 Vict. c. 110. ss. 14. and 15., amended by 3 & 4 Vict. c. 82., render stocks and shares in public funds and in public companies standing in name of debtor chargeable by judge's order for debt of judgment creditor, and 8 & 9 Vict. c. 97. amends the law as to the transfer of stock by executors under testamentary disposition, and as to the payment of dividends on power of attorney of one joint owner, where the co-owner is an infant or of unsound mind. It may probably be thought that the two first-mentioned enactments would be better grouped under Civil Procedure, and that the 8 & 9 Vict. c. 97. belongs more properly to National Debt.

Testament - - - - - - - - 2

The provisions of these Acts have been simplified, amended, and reduced into one Act, in a draft bill prepared by Mr. Brickdale.

Executors and Administrators - - - - - - 23

These numerous enactments, which commence with chapter 18. of Magna Charta, might with much advantage be contained in one Act; but it would probably be advisable that such a bill, framed for the purpose of this simplification and reduction, should pass through the Legislature, either concurrently with or after any bill which may be introduced for reforming or altering the testamentary jurisdiction of the Ecclesiastical Courts.

Trust Property. See *ante* Trust Estate.

Usury - - - - - - - - - - 7

The 12 Ann. st. 2. c. 16., fixed the rate of legal interest at 5*l.* per cent., and declared contracts securing a higher rate to be void. That Act has been greatly modified by subsequent legislation, 14 Geo. 3. c. 79. and 3 Geo. 4. c. 47., as to securities upon real estates in Ireland and the colonies; the 5 & 6 W. 4. c. 41. as to securities generally; 7 W. 4. and 1 Vict. c. 80. as to certain bills of exchange and promissory notes, continued and extended to bills of exchange and promissory notes not having more than twelve months to run, and to all contracts for loan or forbearance of more than 10*l.* (except upon security of real estates), by 2 & 3. Vict. c. 37., temporary 1842, but extended to 1856 by 13 & 14 Vict. c. 56. All of these provisions might well be simplified and reduced into one Act. There are also some sections in the Acts regulating Loan Societies, Benefit Building Societies, and Industrial and Provident Institutions, which may, however, well remain as part of the exceptional law applying to those societies, and to be found in the Acts regulating them.

Persons under Disabilities.

Aliens - - - - - - - - - 25

Probably upon a careful collation of these numerous provisions it would be found that many of those of earlier date are superseded by those of a later period. One Act might, however, well contain all the legislation necessary upon the matter.

Bankrupts - - - - - - - - - 1

The Bankrupt Law Consolidation Act is here treated as containing all the provisions which could well be introduced into one Act. There are other provisions affecting bankrupts, such as those contained in the Winding-up Acts, and in the Industrial and Provident Societies Act, and some others, but they would seem to be more conveniently arranged in the Acts where they are now found than they would be in a Bankruptcy Consolidation Act.

Insolvents - - - - - - - - 12

Similar advantage would result from a consolidation of these Acts to that which has been derived in Bankruptcy from the Bankrupt Law Consolidation Act.

Femes Covert. *See* Husband and Wife.

Infants. *See* Guardian and Ward, and Parent and Child.

Idiots and Lunatics. *See* Lunatics under Public Economy, *supra*.

Administration of Civil Justice.

The Statutes directly affecting the Courts of Justice, taken alone, without the aid of the Common Law, would afford hardly an outline of this important branch of the law; since if the Courts of Bankruptcy, the District County Courts, the Insolvent Debtors Court, and the Judicial Committee of the Privy Council, be excepted, it may be stated with correctness that the Courts of Justice depend more for their constitution and jurisdiction on the Common than the Statute Law. So far as the superior Courts of Equity and Common Law are concerned, a digest of the Common Law and Statute Law affecting their jurisdiction and procedure could be made with considerable facility, from the aid which is to be derived from the reports made by the Chancery Commissioners, and the Common Law

Commissioners, as well those under the Commissions issued in the reign of George the Fourth as those issued by Her Majesty, and further aided as the labour would be by the recent legislation affecting the procedure of the Courts. Were it determined to consolidate this branch of the law, it might be done either in one Statute, which should embrace all Courts for the administration of civil justice, and which would operate as a Code of Civil Procedure, or in several Acts, each of which should contain the whole law regulating the constitution, jurisdiction, and procedure of some one particular Court or class of Courts. In either case the Acts collected under this division of the Statute Book would require to be carefully digested.

Courts :

Constitution and Jurisdiction :

Admiralty - - - - - - - - - - - - 13

Several of these Acts are of an early period, commencing with the 13 Rich. 2. st. 1. c. 5. There are, however, some important recent Acts, as the 2 & 3 Will. 4. c. 92., 5 & 6 Will. 4. c. 76., 3 & 4 Vict. c. 65., and 3 & 4 Vict. c. 66., and 9 & 10 Vict. c. 99. The Acts regulating the criminal jurisdiction of the court are grouped separately, *infra*, under the title " Administration of Criminal Justice."

Assize and Nisi Prius - - - - - - - - 8

These Acts, which relate to the jurisdiction, time, and place of holding a court of assize and nisi prius, commence with 13 Edw. 1. st. 1. c. 30. Some few relate exclusively to particular counties.

Bankruptcy - - - - - - - - - 7

Although the Bankruptcy Laws have been reduced into one Act, the laws regulating the Courts and the officials engaged in administering the law have not been so consolidated, and this number of Acts remain for reduction into one Act, or into a chapter of a Statute of civil procedure.

Borough Courts - - - - - - - - 5

These Courts will probably become gradually displaced by the County Courts, under 15 & 16 Vict. c. 54. s. 7.

Chancery - - - - - - - - - 27

This number includes all the Acts which relate generally to the jurisdiction of the Court of Chancery, but there are very many provisions in Acts for carrying out particular objects which give to the Court of Chancery a special jurisdiction. In any complete consolidation of laws regulating the jurisdiction of this and other Courts, some general provisions might well be introduced which should meet all such cases, and thus obviate special legislation.

Chivalry - - - - - - - - - 2

8 Rich. 2. c. 5., 13 Rich. 2. st. 1. c. 2. The jurisdiction of this Court has become greatly narrowed by the decisions of the superior courts. See Salk. 553., 7 Mod. 125 ; 2 Hawk. P.C. 11. ; Hal. Hist. C. L. 36. ; 1 Roll. Abr. 128.

Cinque Ports - - - - - - - - - 1

This is an Act declaratory of the right of the inhabitants of the Cinque Ports not to be compelled to plead otherwise than according to their charter. Their right seems also to have been preserved by sections 134 and 135 of 5 & 6 Will. 4. c. 76., and s. 10. 6 & 7 Will. 4. c. 105.

Common Law Courts at Westminster - - - - 15

The number of Acts here stated comprises all those which are specially directed to the constitution and jurisdiction of these Courts, but the common law regulates the jurisdiction of these Courts in a far greater degree than the statute law, and no consolidation of the statute law affecting them could safely be undertaken without the most careful revision of such branches of the common law as affect them. The Common Law Procedure Act, 1852, 15 & 16 Vict. c. 76. has, however, very greatly facilitated that labour.

County Courts - - - - - - - - - - 14

Of this number, seven relate to the ordinary county court or sheriff's tourn, the remaining seven to the district county courts established by 9 & 10 Vict. c. 95. One of the latter number consists of that portion of the Charitable Trusts Act which gives to the district county courts jurisdiction in questions of charitable trusts where the income of the charity does not exceed 30*l.* a year. Any digest or consolidation of these provisions would probably be premature until after the commissioners recently appointed to inquire into and report on these courts shall have published their report.

Courts Baron - - - - - - 1

These courts under the Copyhold Enfranchisement Acts are daily becoming of less importance. They depend on the common law for their existence, and the Act referred to, 2 (vulgo 1) Jac. 1. c. 5., seems to be the only general Act affecting their constitution. There are some earlier Acts restraining attempts by lords to extend their jurisdiction to persons not within it.

Exchequer Chamber - - - - - - 5

One of this number is merely a section of 11 Geo. 4. and 1 Will. 4. c. 70.

House of Lords - - - - - - - - 4

Insolvent Debtors - - - - - - - 7

These Acts may be advantageously simplified, and reduced to one Act or chapter of a Statute of Procedure.

Judicial Committee of the Privy Council - - - - 14

These Acts, commencing with 2 & 3 Will. 4. c. 92. and 3 & 4 Will. 4. c. 41., may be advantageously simplified and reduced into one Act or chapter of a Statute of Procedure.

Palatine Counties of Durham and Lancaster - - - - 21

Of these Acts some relate exclusively to Durham; others to Lancaster. Some of the more recent enactments, however, relate to both the counties palatine. The most important of such latter enactments are ss. 228 to 234 of the Common Law Procedure Act, 1852. All of these provisions might well be reduced to one Act or to one chapter of a Statute of Civil Procedure, if it should be deemed advisable, on a revision of the law of civil procedure, to retain these peculiar jurisdictions.

Pie Poudre - - - - - - - - - 2

17 Edw. 4. c. 2. Perpetuated by 1 Rich. 3. c. 6.

Stannary Courts - - - - - - - - 6

The first of these is the 16 Car. 1. c. 15.; the rest are Acts of the reigns of King William the Fourth and Her present Majesty.

Practice:

Holidays, &c. - - - - - - - - 1

Section 43 of 3 & 4 Will. 4. c. 42. provides that none other of the days mentioned in 5 & 6 Edw. 6. c. 3. shall be kept as holidays by the courts and their officers than Sundays, the day of the nativity of our Lord, and the three following days, and Monday and Tuesday in Easter week.

Orders of the Court of Chancery - - - - - 9

These provisions are capable of much simplification. Indeed one enactment would seem to be sufficient to confer the power to make the orders necessary for regulating the practice of the court.

Rules of the Common Law Courts - - - - - 5

One general enactment might contain all the necessary provisions on the subject.

Terms and Sittings - - - - - - 3

One short enactment on the subject would be sufficient.

Judges and Officers:

Chancery - - - - - - - - 50

By a very careful collation of these enactments many of the earlier of

them might be ascertained to have been suspended by those of a later date. Some of them, however, are of much importance, since they indirectly affect the jurisdiction of the court. But one Act or chapter of Civil Procedure might well regulate the constitution, jurisdiction, and procedure of the court, and contain the necessary provisions as to the appointment, duties, and salaries of the judges and officers.

Common Law Courts at Westminster - - - - - 45

A similar suggestion to that made as to the Acts regulating the appointment and duties of the judges and officers of the court of Chancery would apply to those regulating the Judges and officers of the common law courts.

Justices of Assize and Nisi Prius - - - - - - 5

These provisions would properly form part of the Act or chapter of a Statute of Civil Procedure by which the circuits of the judges of the superior courts were regulated.

Counsel and Attornies:

Counsel - - - - - - - - - 4

The bar is regulated rather by common law than by statute. The enactments here enumerated are, 6 Geo. 4. c. 95., which provides that the coif may be taken in vacation; the 9 & 10 Vict. c. 54. which abolishes the exclusive right of audience enjoyed by Serjeants-at-Law in the Common Pleas; 13 & 14 Vict. c. 25., qualifying Queen's Counsel not of the degree of the coif to act as Justices of Assize; and the 15 & 16 Vict. c. 54. s. 10., regulating the right of the bar to practise in the district courts.

Attornies - - - - - - - - - 12

The 6 & 7 Vict. c. 73. was passed for the consolidation of the law affecting the admission of attornies and solicitors; some few provisions of earlier Acts were, however, left unrepealed, and some have been enacted since. One Act might well contain all the necessary provisions on the subject.

Sheriff and his officers - - - - - - - 55

Many of these enactments are of an early date, and a close revision of the Acts might show that some of them had been superseded by later legislation. Some of the provisions enumerated are sections to be found in Acts on the procedure of the courts. One Act or one chapter of a statute of Civil Procedure might well contain all that were necessary of these provisions.

Officers of peculiar and inferior courts - - - - - 1

The Act 7 & 8 Vict. c. 19. enables judges of inferior courts to appoint proper persons as bailiffs and officers, and restrains extortion and oppression by such officers. This seems to be the only general enactment on the subject, but there are numerous provisions in the different Acts which regulate the several inferior courts.

Procedure - - - - - - - - -

Were it determined to reduce the Acts relating to the civil courts and their procedure into one statute or code of Civil Procedure, the regulation of the procedure of each court or class of courts would form a series of sections under the chapter which regulates the courts to which the procedure appertained; or if it were thought better that each court or class of courts should be regulated by a separate Act, the procedure of such courts would be provided for by a set of sections in such Act; but it would be a question for consideration as to how far the procedure should be regulated by rules prescribed by the judges under general powers from the Legislature, and how far special legislation on the subject should be provided by Parliament. The following analysis will give some idea of the quantity of special legislation on the subject which exists at present.

Actions and Procedure by Actions:—Actions:

Personal Actions - - - - - - - - 36

These Acts regulate the different forms of action and actions by

and against particular persons. Most of the provisions are to some extent affected or modified by the Common Law Procedure Act, 1852; they are capable of much generalization and simplification.

Real and Mixed Actions - - - - - - - 19

By 3 & 4 Will. 4. c. 27. no real or mixed actions except for Dower, *Quare Impedit*, or an Ejectment, can be brought. The Common Law Procedure Act, 1852, introduces great amendments into the action of ejectment. Many of the Acts relating to Dower and to *Quare Impedit* are of an early date.

Procedure by Action :

Abatement - - - - - - - - 15

These provisions have not been directly repealed, but ss. 135. to 142. of the Common Law Procedure Act may be considered sufficiently general to comprise them all, and thus supersede them.

Arrest - - - - - - - - 4

Bail - - - - - - - - 7

Error - - - - - - - - 6

The proceedings in error are remodelled by the Common Law Procedure Act, ss. 146. to 167., but so much of the older Acts as regulate the cases in which error will lie would seem to remain in force.

Execution - - - - - - - 40

The law on this subject is greatly modified by the Common Law Procedure Act, ss. 120. to 127. A large number of these provisions are sections of Acts of a more general character.

Interpleader - - - - - - - 2

Judgment - - - - - - - - 18

By collation of these various enactments their number might perhaps be somewhat reduced. The Common Law Procedure Act, ss. 92. to 96., ss. 100., 101., ss. 128. to 134., and ss. 143. to 145., greatly simplifies and improves the law as to judgment by default, motions in arrest of judgment, judgments non obstante veredicto, and revivor of judgments.

Limitation of Actions - - - - - - - 11

The number of enactments on this subject is probably somewhat understated. Many of them are sections of Acts on more general subjects; much simplification might be introduced. The Common Law Procedure Act, ss. 11. to 13., has improved the method of "saving the statute."

Nonsuit (Judgment as in case of) - - - - - 4

Sections 100., 101., and 183. of the Common Law Procedure Act introduce improvements, but do not consolidate the law on this subject.

Notice of Action - - - - - - - 1

5 & 6 Vict. c. 97. s. 4. appoints one calendar month before the commencement of action, where notice of action is requisite.

Outlawry - - - - - - - 12

These provisions are capable of much simplification and generalization. They are amended by the Common Law Procedure Act - 24

Pleading - - - - - - - 22

The Common Law Procedure Act, 1852, ss. 42. to 91., has much improved this branch of the law of Procedure; and probably, on a careful collation of the earlier enactments, many of them would be found to be superseded or virtually repealed, but they have not been directly repealed.

Process - - - - - - - - 3

This term is used here with reference only to the commencement of an action.

Suing in formâ pauperis - - - - - - - 3

Trial - - - - - - - - - 12

In this number are included enactments as to jury and jury process, view, notice of trial, and other similar matters. The Common

Law Procedure Act has introduced great amendments, but did not consolidate the law on the subject.

Warrant of Attorney and Cognovit actionem - - - 8

Procedure in Equity - - - - - 25

Recent legislation, more particularly the Acts of 15 & 16 Vict., cc. 80., 86., and 87., and the orders made under them, have introduced great amendments into the equity procedure of the Court of Chancery, and many of the enactments here grouped together have thus become superseded or virtually repealed; but no direct repeal of them has been effected, and time has not sufficed to collate them with the recent Acts.

Arbitration - - - - - - - - 4

This is the number of general enactments, but there are sections in various Acts regulating particular classes of persons, or for effecting certain objects of public economy, which provide for the modes of arbitration of differences in particular cases.

Recognizances [Statute Merchant] - - - - 12

Writs - - - - - - - - 40

The enactments regulating proceedings under Quo Warranto, Mandamus, Prohibition, and Habeas Corpus, are of this number.

Amendment - - - - - - - - 20

The power of amendment of pleadings and proceedings vested in the courts has been of late most advantageously enlarged, and as to the Common Law Courts more particularly by s. 222 of the Common Law Procedure Act, 1852.

Evidence:

The law on this subject having been very gradually liberalized, many Acts are in force the provisions of which might well be generalized and consolidated; many of the provisions of the earlier Acts may be considered as absorbed in the more liberal provisions of later Acts, but the number of enactments stated *infra* nearly accurately represents those not directly repealed.

Documentary and Presumptive - - - - - 18

Witnesses:

Competency - - - - - - - 11

Examination - - - - - - - 9

Costs - - - - - - - 28

These enactments much require consolidation, and might most advantageously be reduced to one Act, or one Chapter of a Statute of Procedure.

Criminal Law.

The whole of the Criminal Law (exclusive of the law regulating procedure in criminal cases), as well Common Law as Statute, having been reduced into the form of a draft bill by the Criminal Law Commissioners, the following analysis is given merely to show the number of enactments, on each of the different heads, under which the whole of the Statutes relating to crimes and their punishments have been here arranged.

Offences against Religion:

Arresting Clergymen - - - - - 1

Blasphemy - - - - - 2

Contempts - - - - - - - 6

Disturbance of Worship - - - - - 4

Falsification of Ecclesiastical Leases - - - - 1

Heresy - - - - - - - 1

Roman Catholic Relief - - - - - 2

Oppression of Ecclesiastical Judges - - - - 2

Witchcraft - - - - - - 2

Offences against the Law of Nations:

Piracy - - - - - - - 7

Truce-breaking - - - - - - - 1

Violation of Diplomatic Privileges - - - - 1

Offences against the Queen and Government:	
Treason:* [*see foot note.*]	
Acts made Treason, and punishable as such	12
Attainder	4
Counsel	2
Evidence	6
Forfeiture	3
Indictment	7
Judgment	2
Jury	2
Trial	5
Offences against the Person of the Sovereign	1
Offences injurious to the Queen's Prerogative:	
Coin, Offences relating to	4
Felonies against Queen's Council	3
Offences tending to impair National Defence:	
Desertion and Mutiny	5
Escape of Prisoners of War	1
Foreign Enlistment	1
Forgery to escape Enlistment	2
Ordnance and Stores, Offences relating to	8
Ships of War, Dockyards, &c.	1
Offences of a seditious tendency	10
Trafficking in Public Offices	2
Contempts	8
Præmunire	32
Offences against the Revenue:	
Offences affecting its Receipt:	
Customs	5
Excise	10
Post Office	2
Stamps	19
Taxes	8
Woods and Forests	3
Offences affecting its Collection, Audit, Custody, and Management	3
Offences affecting its Expenditure:	
Annuities and Debt:	
Forgery and Perjury	24
Compensation Allowances:	
Forgery and Perjury	6
Payment of Forces (Salaries and Pensions, Civil Department)	9
Offences against Public Justice:	
Bribery	6
Champerty and Maintenance	20
Compounding Informations	3
Conspiracy	1
Contempt of ministers of justice	1
Deceit in the King's or Queen's court	1
Embracery and false verdict	1
Embezzling, stealing, and destroying judicial documents	2
Escape, rescue, and prison breach	11
Extortion	10
False personation	2
Forgery	24
Misconduct and negligence of officers	7
Obstructing execution of process or lawful apprehension	4
Oppression by magistrates	2
Perjury	79
Receiving stolen property	7
Returning from transportation	3
Taking reward for return of stolen goods	1

* Procedure in treason, being specially provided for, has been grouped with Treason, although in any consolidation of Acts relating to Procedure it would find a place under the next division, "Administration of Criminal Justice."

Offences against Public Economy:
- Offences against police:
  - Anatomy laws - 1
- Destruction of buildings and works:
  - Bridges - 1
  - Turnpikes - 1
  - Works of art - 1
- Disorderly Houses - 4
- Games and gaming - 1
- Game and Fish - 6
- Health - 7
- Madhouses - 2
- Marriage Laws - 2
- Nuisances - 7
- Religious Orders - 1
- Traffic - 4
- Vagrancy - 8

Offences against the Public Peace:
- Affray - 2
- Assault - 18
- Assembling for training to arms - 1
- Disturbance of Elections - 1
- Forcible Entry - 6
- Libel - 4
- Riding or going armed - 1
- Riot - 11
- Sending threatening Letters - 3
- Spreading false News - 5
- Tumultuous petitioning - 2

Offences affecting Trade and Commerce:
- Cheating - 5
- Combination - 1
- Forestalling, regrating, and engrossing - 1
- Fraudulent Bankruptcy and Insolvency - 3
- Fraudulent Dealing by Agents - 2
- Slave Trade - 3
- Truck Payment - 1
- Usury - 1

Offences against Individuals:

Offences against their Person:
- Abandoning Seamen - 2
- Abduction - 1
- Abortion - 1
- Assault (See *ante*, Offences against the Public Peace).
- Carnal knowledge - 2
- Concealing birth - 2
- Homicide - 2
- Malicious arrest - 4
- Manslaughter - 1
- Mayhem (and attempts to commit) - 3
- Murder (and attempts to commit) - 6
- Rape - 2
- Sodomy - 1

Offences against their property:
- Arson:
  - Buildings - 4
  - Mines - 2
  - Ships - 2
  - Stacks of agricultural produce - 2
  - Standing crops - 1
- Burglary - 3
- Embezzlement (by agents, bankers, or factors) - 1
  (by bankrupts) - 1
  (by clerks, servants, and workmen) - 15
  (by members, officers, and servants of public co-partnerships) - 3

Forgery	12
Illegal distress	3
Larceny:	
Animals	3
Fixtures	1
Fruit, vegetables	1
General enactments	5
Letters	1
Securities, wills, writings	2
Shrubs, trees, &c.	1
Stealing from or in particular places	7
Stealing from the person	4
Stealing by persons in particular capacities and relationships	4
Malicious injury:	
Buildings	4
Cattle	1
Clothes	2
Fences and gates, and enclosed lands	4
Fish and fishponds	1
Fruit and vegetables	1
Hop-binds	2
Machinery	3
Manufactures	1
Mill-ponds	1
Mines	1
Shrubs, trees, &c.	1
Vessels	3
Works on rivers, railways, and canals, &c.	2
Misapplication of corporate property	1
Obtaining property by false pretences	3
Soliciting minors to grant annuities	1
Waste	1
Accessaries	13

Administration of Criminal Justice.

It was proposed by the Criminal Law Commissioners that a Statute of Criminal Procedure should be framed which, if adopted, would remove most of the enactments collected under this division. The following analysis is not quite similar to that of the Criminal Law Commissioners, who, dealing with both the statute and common law, were enabled to adopt a more scientific classification. Were it determined to consolidate the criminal statutes before proceeding to a digest or code of the criminal law, the enactments collected under this division might be reduced into three Acts:

1st. An Act regulating the constitution and jurisdiction of the judges and officers of the criminal courts.

2d. An Act of procedure in criminal cases.

3d. An Act prescribing the mode of carrying into execution the judgment of the law, and which would include the management of gaols and prison discipline.

Courts:	
Constitution and jurisdiction:	
Admiralty	20
Central Criminal Court	4
Court of criminal appeal	1
Courts of gaol delivery, and oyer and terminer	7
Court of the lord steward of King's or Queen's household	2
House of Lords	4
King's or Queen's Bench, Crown side	2
Quarter sessions and justices in quarter sessions:	
Justices in quarter sessions	13
Quarter sessions in boroughs	6
Practice:	
Central Criminal Court	3

Courts of gaol delivery, and oyer and terminer - - - 6
King's or Queen's Bench (Crown side) - - - - 3
Quarter Sessions:
Division of court - - - - - - - 3
Fees - - - - - - - - - 1
Holding - - - - - - - - 9
Proceedings - - - - - - - 2
Proclamations - - - - - - - 1
Judges and officers:
Judges and justices of gaol delivery, and oyer and terminer, &c. - 10
Justices of the peace - - - - - - - 40
Sheriff, bailiffs, &c. (and see Sheriffs, under division ADMINISTRATION OF CIVIL JUSTICE) - - - - - - - 9
Clerk of peace and clerks to justices of the peace - - - 13
Coroner - - - - - - - - 17
Procedure:
Arrest - - - - - - - - 14
Cases reserved - - - - - - - 1
Examination and bail:
Examination - - - - - - - 2
Bail - - - - - - - - 12
Inquest:
Grand jury - - - - - - - - 2
Coroner's jury - - - - - - - - 8
Indictment and information:
Indictment - - - - - - - - 40
Information - - - - - - - - 7
Plea and Privilege - - - - - - - - 5
Trial:—Acquittal, arraignment, defence - - - - - 11
Jury:—Challenge, functions, general enactment, medietate linguæ, qualification and return, summoning and verdict - 8
Conviction - - - - - - - - 6
Judgment:—Death, general enactments, imprisonment, pillory, transportation, whipping - - - - - - - 14
Attainder:—Disherison, escheat, forfeiture - - - - - 15
Execution:
Death - - - - - - - - - 6
Imprisonment - - - - - - - - 9
Stay of execution - - - - - - - 3
Transportation - - - - - - - - 12
Outlawry and waiver - - - - - - - - 9
Pardon - - - - - - - - - 13
Writs:
Capias (See Outlawry and Waiver).
Certiorari.—In addition to this number there are numerous sections of Acts which take away the right to certiorari in particular cases 9
Habeas Corpus - - - - - - - - 6
Restitution - - - - - - - - 3
Evidence - - - - - - - - - 25
Costs and expenses - - - - - - - - 10
Gaols and prison discipline - - - - - - 33

RELIGION.

Church of England:
Articles of Faith - - - - - - - - 51
These enactments relate to *Doctrine* (4), *Liturgy*, and *Sacraments* (21), and to the observance of fasts, festivals, and public holy-days, and days of public thanksgiving (26).
Authority:
Commissions of Inquiry and Improvement - - - - - 27
These provisions relate to Church Building Commissioners, Tithe Commutation Commissioners, Ecclesiastical Commissioners, and Church Estate Commissioners. It is somewhat difficult in many instances to disentangle the provisions regulating the duties and

powers of the Commissioners and the law for the regulation of the rights and interests created by the exercise of such powers and duties. The law as to both must be re-cast before a complete consolidation of either could take place. Probably one Act for each set of Commissioners would be the clearest course.

Convocation - - - - - - - - - - - - - 5

The Acts contained in this number, viz., 8 Hen. 6. c. 1., 11 Hen. 6. c. 11., 24 Hen. 8. c. 12. s. 9., 25 Hen. 8. c. 19., and 1 Eliz. c. 1., chiefly affect the prerogative of the Crown, and their provisions would be probably more satisfactorily consolidated at the same time with those classed *supra*, division "Crown" Titles, "Authority, Style, and Title," and "General Restrictions and Limitations of Prerogative."

Courts - - - - - - - - - - - - - 54

This number includes the Acts which regulate the constitution and jurisdiction of the Courts, the appointments and duties of its judges and officers, and its procedure. The larger proportion of the Acts are anterior in date to the Hanoverian period. A digest of the Acts might be useful in considering any alteration of the jurisdiction or constitution of these Courts; but it would be useless to undertake any consolidation of the Acts until such alterations of jurisdiction or constitution have been determined on.

Independence - - - - - - - - - - - - 65

More than half of these Acts are confirmations of the first chapter of Magna Charta. Several Acts, from the reign of Edward the First to that of Elizabeth, restrain the interference of the Church of Rome. There are also other provisions in the Act of Settlement and in the Acts of Union with Scotland and Ireland, declaratory of the independence of the Church of England, and the 14 & 15 Vict. c. 60, restraining the assumption of ecclesiastical titles by Romanists.

Queen's supremacy - - - - - - - - - - - 7

These Acts commence in the reign of Hen. 8., since which time the principal provisions have consisted in changes of the form of oath of supremacy.

Benefices:

This division might be made the subject of one Act, or if that were thought too extensive, then it might be provided for in six Acts; one to contain the general provisions as to admission and usurpation, appropriation, mortuaries, parish clerks, pluralities and residence, and curates and lecturers; one, provisions as to glebe-houses and residences; one, provisions as to leases: one, the augmentation of small livings; one, tithes; and one, the union and division of parishes. The following shows the relative amount of legislation upon each of these subjects.

Admission and Usurpation - - - - - - - - - 30

These Acts are capable of great simplification; many of them are of a very early period.

Appropriation - - - - - - - - - - - 3

Glebe and Houses of Residence - - - - - - - - 20

These Acts greatly require simplification.

Leases - - - - - - - - - - - - - 13

These Acts might most advantageously be reduced into one Act or chapter.

Mortuaries - - - - - - - - - - - - 4

Parish Clerks - - - - - - - - - - - 2

Pluralities and Residence - - - - - - - - - 7

Small Livings - - - - - - - - - - - 16

These enactments contain the various provisions for their augmentation, including the Acts relating to Queen Anne's Bounty. They are capable of simplification and amendment.

Stipendiary Curates and Lecturers - - - - - - - - 3

Tithes - - - - - - - - - - - - - -

This number includes the Acts regulating the Commutation of Tithes.

Union and division of Parishes - - - - - - - - 24

These enactments greatly require simplification and reduction into one Act or chapter, which would require to be done with reference to the various Church Building Acts.

Churches :

Cathedral and collegiate churches - - - - - - - 20

These Acts might be reduced into one Act.

Parish Churches - - - - - - - - - - - 26

This number includes the various provisions relating to parish churches, district churches, and chapels of ease. The Church Building Acts, which are here also collected, are in the most confused state, and great advantage would result from their immediate reduction into one Act. In which case the provisions as to the union and division of parishes grouped *supra* under Benefices would require careful consideration. The entire statutory provisions as to parish churches, and the three following titles, might well form the subject-matter of one Act.

Church Rates - - - - - - - - - - - 9

Churchwardens - - - - - - - - - - - 24

This number of enactments has no reference to those which relate to these officers as overseers of the poor.

Churchyards - - - - - - - - - - - - 10

There are also some additional provisions as to churchyards in the several Church Building Acts.

Clerks :

The statutory provisions collected under the three following heads might be reduced into one Act :—

Discipline - - - - - - - - - 10

Ordination - - - - - - - - - 7

Privileges and Disabilities - - - - - - 7

Dignitaries :

Archbishops and Bishops :

Election, Nomination, and Consecration - - - - - 12

Jurisdiction, Rights, and Privileges - - - - - - 19

Temporalities - - - - - - - - - - 24

Archdeacons and Rural Deans - - - - - - - 8

Deans and Canons :

The provisions as to this order of dignitaries are collected under Cathedral and Collegiate Churches.

First Fruits and Tenths - - - - - - - - - - 19

These provisions might form part of an Act for the consolidation of the law relating to the augmentation of Small Livings.

Dissent :

Judaism - - - - - - - - - - - - 3

Papistical Dissent - - - - - - - - - - 21

Upon collation, many of these provisions would probably be found to have become superseded or virtually repealed. Their number, as in the case of Protestant Dissent, arises from the very gradual repeal of penalties and disabilities. As some of them affect questions of constitutional law, they may remain for consolidation until Acts of a similar class are consolidated.

Protestant Dissent - - - - - - - - - - 20

SECOND REPORT

OF

MR. BELLENDEN KER TO THE LORD CHANCELLOR,

ON THE

PROCEEDINGS OF THE BOARD

FOR THE

REVISION OF THE STATUTE LAW.

(*Mr. Walpole.*)

Ordered, by The House of Commons, *to be Printed,*
12 *June* 1854.

302.

Under 8 oz.

BIBL. LONDIN